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EDUCATION OF THE HANDICAPPED ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON THE HANDICAPPED

OF THE

COMMITTEE ON LABOR AND HUMAN RESOURCES

UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

EXAMINING DISCRETIONARY PROGRAMS UNDER THE EDUCATION OF THE HANDICAPPED ACT

JULY 24, 1989
SPRINGFIELD, ILLINOIS

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EDUCATION OF THE HANDICAPPED ACT

MONDAY, JULY 24, 1989

U.S. Senate,
Subcommittee on the Handicapped,
of the Committee on Labor and Human Resources,
Springfield, IL.

The subcommittee met, pursuant to notice, at 10:40 a.m., in the Board Room of the State Board of Education Building, 100 North First Street, Springfield, IL, Senator Paul Simon (chairman of the subcommittee) presiding.

Present: Senator Simon.

OPENING STATEMENT OF SENATOR SIMON

Senator Simon. The subcommittee hearing will come to order. I am pleased to have a hearing on the question of the education of children who have disabilities. Before I go on with just a very few opening remarks, and I will enter my statement in the record, I want to thank Rhonda Downs, who is doing the interpreting here. I also want to thank Susan Shea, Sheryl Poggi and Bill Becker, who helped to arrange for the meeting here, and Judy Wagner of my staff, who is one of the experts on Capital Hill, even though she does not like to be called that, in this whole area of working with people with disabilities.

This is the first field hearing, that is a hearing outside of Washington, on this subject since I held hearings when I chaired the subcommittee in the House that had jurisdiction. It is the first Senate hearing on this subject since 1978. The aim of the hearing is particularly to see what we are doing right, what we are doing wrong on Public Law 94-142, the bill that mandates access to education for young people who have disabilities.

The Chairman of the Subcommittee on the Handicapped is Senator Tom Harkin of Iowa, who is tied up in Washington on another piece of legislation that he is working on. He has provided real leadership and I want to pay tribute to him, as well as to former Senator Lowell Weicker, former Republican Senator from Connecticut, who also provided great leadership. We are now working on the Americans with Disabilities Act, and that is what is keeping Senator Harkin in Washington right now.

We have experienced a variety of problems, including one of the most fundamental, a funding problem. In theory, we should be at the 40 percent Federal support level on funding. That is what the Federal statute authorizes. We are at about a 9 percent level. That is better than the 7 percent level we were at a few years ago when the President requested that we zero out funding for this program.

But 9 percent still is a long way from where we ought to be in support from the Federal level.

We think the program is a good program. We also know it can be a better program, as any program can, and I hope that our hearing here today can help along that line.

[The prepared opening statement of Senator Simon follows:]

PREPARED OPENING STATEMENT OF SENATOR SIMON

I want to welcome the witnesses at today's hearing—the first congressional field hearing on the education of children with handicaps since 1980, and the first Senate field hearing on this topic since 1978. I had the privilege of chairing the series of field hearings in 1980 as chairman of the House subcommittee with jurisdiction over these programs.

The hearing today covers a wide range of topics, including some that touch upon the discretionary programs under the Education of the Handicapped Act, programs that are scheduled for reauthorization before the end of this fiscal year. I look forward to suggestions on amendments to those sections of the Act. The hearing is also intended to give us a better picture of what is happening to children being served under Part B of the Act, best known as Public Law 94-142. This part of the Act has a permanent authorization, and it is not likely we will be amending it any time in the foreseeable future. But we do want to look at how it is working, what progress has been made in the past decade, what problems remain, and what we can do from the Federal level to improve the way it is working.

I am chairing the hearing today on behalf of Senator Tom Harkin, the Chairman of the Subcommittee on the Handicapped. Senator Harkin is a champion of the programs that give hope and opportunity to all of our citizens with disabilities in this country. Because of his current work on a major civil rights bill that will ensure the rights of children, youth and adults with disabilities—the Americans with Disabilities Act—he is unable to be here today. That bill is presently scheduled to come before the Senate Labor and Human Resources Committee on Wednesday of this week. But Tom Harkin wanted me to give you his greetings and his assurance that the record of this hearing will have his attention. We both recognize that it has been far too long since either the House or the Senate officially collected information on these programs in the States.

Frankly, in the past eight years our activities related to education of handicapped children has had to be directed at preventing these programs from being "deregulated," folded into block grants, or drastically cut in funding. We spent some time overturning Supreme Court cases such as the one that found that parents could not be reimbursed for attorney fees for actions under Public Law 94-142. The Grove City case, which gutted the protections of Section 504 of the Rehabilitation Act for both adults and children with disabilities, took several years of work in Congress to be restored to its long-held previous interpretation. In addition, we have spent time in authorizing new initiatives under the Act, such as the early intervention programs, which recognize that the earlier services are provided to children with handicaps, the fewer services they will need in the future and the more they will thrive in regular education settings.

As a member of the Budget Committee in the House and now in the Senate, I've worked with my colleagues to try to keep funds for Public Law 94-142 from being cut, and to provide increases. In overall dollar amounts, we have provided increases every year. In terms of actual assistance per child being served, however, we have gone the wrong direction. In the late 1970s the level of Federal funding based on a national average per pupil expenditure was a fairly stable 12 percent—far from the original commitment of 40 percent, but showing some signs of being increased. During the initial years of the Reagan administration, that level fell to 7 percent. We now have it back up at about 9 percent, but we can and should be doing far better. Insufficient Federal support does not lessen the mandate of Public Law 94-142 and cannot be used as an excuse for not providing appropriate education services. But there is no question that the level of funding has a direct bearing on the quality of services being provided. I can assure you I will continue to fight for increases for these programs.

Senator Harkin agreed with me that Illinois was a good place to get a "snapshot" view of what is happening today in special education. We are a State with the problems found in congested urban areas, dispersed suburbs and very rural areas. We have more than 200,000 children identified as receiving services through Public Law

94-142. And the State is actively addressing some of the issues such as least restrictive environment that have remained a subject of concern since the earliest days of Public Law 94-142. It is impossible in one short hearing to begin to address all of the important issues parents and educators are facing today, and I hope those who feel they have a message that is not covered today will send me written testimony and comments to be included in the record of this hearing.

Again, I appreciate the efforts of each of you to help us fulfill the promise of Public Law 94-142: the promise that all of our children, no matter their handicaps, have an opportunity to share equally in the American dream.

Senator SIMON. Let me just add, when it was first suggested that we hold a hearing in July someone said everybody is going to be out vacationing, we will not have anyone to testify on the subject. Our problem has been we have had too many people who want to testify. We are sorry we cannot get all the people in who wanted to testify. If they want to submit statements for the record they will be entered into the record and they will be available for my colleagues on the subcommittee. But we are very pleased to be here and have the hearing here.

Let me call on the first panel. Let me just add that we are going to try and limit the initial comments to five minutes, and then use time for questions. We will enter your full statement into the record along with your informal statement. The first panel is Dr. Ed Sontag, Assistant Superintendent, Department of Special Education in Illinois, and Beth Langen, the Deputy Director of the Bureau of Rehabilitation Services. I'm very happy to have both of you here.

Let me also acknowledge the work of the Court Reporter, Kathleen Bultas.

We thank you for your good work too, Kathi.

Dr. Sontag, we thank you very much for your hospitality, in letting us use this building. I saw this building go up and I passed it many times. But, I've never actually been in this building until today. I'm happy to be here with you.

STATEMENT OF DR. ED SONTAG, ASSISTANT SUPERINTENDENT, DEPARTMENT OF SPECIAL EDUCATION, SPRINGFIELD, IL

Dr. SONTAG. Thank you, Senator. And it is a pleasure to be here. There is an expression in Springfield, "There is no such thing as a free building." But we will talk later.

I am reminded today of some wonderful work that you have performed that is an advocacy for handicapped children. Seeing your staff member, Judy Wagner, next to you reminds me of a critical event that I am not sure people have a sense of the importance of. In 1981, many of us realized that the basic future of Public Law 94-142 was at stake and severely threatened. And I know under your leadership a document called the "Dear Colleague Letter" was circulated throughout the Congress and there were many special groups at that time trying to have their programs protected from block grants. The "Dear Colleague Letter" ultimately had over 400 signatures in both the Senate and the House, and I know many of the people who were in Washington at that time, and across the Nation, feel that it was the first of a successful effort to say to the Nation that Public Law 94-142 is important and we want to keep it.

I will enter my statement for the record, and essentially this morning I would like to talk about five issues that are affecting handicapped children in Illinois, and in the Nation.

But first, I am primarily going to describe some problems, I will not take your time to talk about what a wonderful success story this Act has been. It has opened up public schools in this Nation to handicapped children in a way that many of us never thought possible. It works. My data, my suggestions about problems are probably, while I think they are important, are on the margin. We do have a successful activity in front of us.

I would like to talk this morning about least restrictive environment (LRE), the need for the special education community to become more accountable for the services it delivers, and about critical needs for personnel to teach handicapped children in the State of Illinois. I would like to talk briefly about the issue of deaf education in the least restrictive environment, and some emerging issues that we need to face in the field of special education.

LRE is a national, as well as State concern. Our data in Illinois would indicate we tend to segregate and isolate more children than most other states. We are 8th or 9th from the highest in the ranking when we look at how we isolate and segregate children. We tend to send more children for residential services than just about any other State in the Nation. Our costs for room and board are accelerating at an alarming rate, primarily because of the lack of other options for children, for short term residential options. We send more children out of State than we should.

We feel very good about our current efforts in LRE. In Illinois to we are beginning to move so that we have more integrated options available for children and parents. We have initiated a project called Project Choices this past year. This project has just completed its first year of operation, and while we have been integrated in about 25 high schools across the State, we are also showing that 70 percent of all of the graduates of the first year class, those individuals who only had one year, are going on to full time, independent employment in the community. We will contrast that with some data that I have been talking about in a few minutes.

We have been very pleased with the involvement of DORS, the rehabilitation agency in Illinois. One of the highlights of my tenure in this State has been the cooperation and involvement of DORS in our project.

The second issue that I briefly want to touch on is the need for accountability in special education. In the recent report to Congress that was just shared with you by the U.S. Department of Education, are some rather disturbing statistics. The report highlights that about 45 percent of all children labeled emotionally disturbed, or in this State, behavioral disordered end up incarcerated within one year after leaving public school. Of all the children who leave special education in all of the categories, 23 percent are employed full time, 22 percent part-time. Fifty-five percent of all children graduating from special education in this Nation are unemployed after leaving school. Our drop out data is an equal concern to us. For the first time in last year's report to Congress, the U.S. Department of Education said handicapped children are leaving school at a faster rate than regular students. These are significant problems. And we, in special education, need to begin to talk about our problems in the context of a successful enterprise. We need to address some of the alarming data that begins to say that in some areas we need to improve the efficiency of our operation.

The next issue that I would like to briefly talk about, and this has been somewhat a controversial issue in Illinois as it has been across the country, the issue of the hard of hearing and deaf community in the least restrictive environment. Illinois serves 3,250 hard of hearing and deaf children in its programs. Ninety percent of all those children are served in regular public school settings; 255 are served at a fine institution in Jacksonville, the Illinois School for the Deaf, and that represents about 7 percent of our population.

Many individuals have suggested that the reason for a decline in the enrollment of the school for the deaf in Jacksonville is LRE. Well, as we look at that data that does not seem to be the case. I think we need to understand that now that the rubella bulge or the rubella population has moved out of the school age population there is across the country a significant decline in the number of deaf students. In 1977, when Congress passed Public Law 94-142, there were about 37,000 deaf children or hard of hearing children served in schools. Today that figure is approximately 12,000 less. So that decrease in the basic population is reflected, not only in schools for the deaf across the country, but in public schools as well.

There are other issues that we are attempting to address as we serve deaf children. We have had very few formal complaints regarding admission to the school for the deaf. We have only had two due process hearings in the last year or so of parents requesting admission to the school for the deaf where it was denied by school authorities.

The same report that I talked to you earlier about, some of the problem data, the report to Congress, suggests that Illinois is doing a wonderful job in the area of deaf education as it relates to high school graduation. The national average for hard of hearing and deaf children graduating from high school is about 60 percent. In Illinois we are proud to report that our figure is 83 percent, not 100 percent, but significantly above the national average of 60 percent. And I think that is a major indicator that public schools are doing a fairly good job in educating deaf children.

We continue to work at the quality issues of serving deaf children in the schools. We have a major task force between the State Board of Education and the Rehabilitation Agency. We continue to study and are making some major recommendations in regard to the National Commission on Education of the Deaf report. We are continuing to train our staff to use sign language. Under a bill recently passed by the legislature, American Sign Language would be an optional course in high schools in Illinois. We are really excited about that. Monitoring of deaf programs will be a major priority of our school board.

I would like to talk quickly about personnel shortages, and it is a major problem facing the Illinois State Board of Education and approximately 980 school districts serving handicapped children in Illinois. It is an acute problem. It is getting worse. The number of trained individuals coming out of colleges and universities is not adequate.

In the area of speech and hearing alone, we will probably see over the next three or four years, 35 to 40 individuals who will take full time jobs in public schools working with this population alone. A conservative estimate of the number of vacancies is 100. That is probably the tip of the iceberg. Few school districts want to openly admit that they are in violation of Federal law and will not be serving children appropriately. Our more realistic estimate of that number is that probably 200 or 300 teachers are needed in this area alone. It is getting very complex. We do not foresee any short term solutions. The Federal Government, the Department of Education, needs to prioritize its discretionary dollars back into the area of teacher training. The Congress needs to look at the legislation calling for highest standards. It is beginning to cause real problems.

Very few people would want to stand up here and say we are opposed to highest standards.

Senator SIMON. I do not mean to interrupt you, but we are going to have to stick to that five minute time limit. Otherwise I am going to miss that plane to Washington this afternoon. If you can summarize the balance of your remarks.

Dr. SONTAG. I want to summarize very quickly with probably the most significant problem I think we are going to have to face in special education in the next several years. That is what is commonly being called the drug baby phenomenon, the presence of AIDS children, children infected from birth. Our typical image of the AIDS child is one who received the infection through transfusion. We are now finding that more and more of these children are becoming infected because one of the parents is infected with AIDS.

We know from some research that was just recently conducted in New York, that about 99 percent of all of these children who are born HIV positive will have significant developmental problems. That number is going to increase dramatically in Illinois and in the Nation. Special education needs to be ready to deal with this problem, needs to be able to begin to deal with what we are calling drug babies. I am uncomfortable with that label, Senator, but I think it needs to be used for a while to communicate the critical nature of this problem.

The availability of crack is about $6 a shot. You can get crack now for about the same price you can see a movie in downtown Chicago. We have a crack epidemic. More and more children are being born to addicted mothers. More and more of these children are being born with developmental problems, low birth rate, premature. This population is going to be coming into special education. This population is going to expand special education.

In summary, as you said, we have not reached the 40 percent funding ratio, but the 9 percent means that in Illinois we are not going to get the help we need to deal with the significant expansion of a more difficult to serve population. Thank you for allowing me to exceed my time.

[The prepared statement of Dr. Sontag follows:]

PREPARED STATEMENT OF ED SONTAG

This opportunity today allows me to speak to the mandates of P.L. 94-142 which have had a profoundly positive effect on the lives of students with handicaps. It also allows me to critically review provisions of the law which have not been implemented according to the spirit and intent of the law. Basically, the question is raised, Is P.L. 94-142 working? Specifically, I will address the principles of individualized education and least restrictive environment, special education accountability, the critical need for personnel who are well-qualified and available in sufficient quantity to provide services to identified handicapped students, the federal role in providing technical assistance and emerging issues due to changes in student enrollment and societal standards.

Over the past year, the Illinois State Board of Education, Department of Special Education has undertaken a major initiative to implement the intent of the least restrictive environment (LRE), i.e. that children with handicaps are educated in the same schools they would attend if they were not handicapped and with children who are not handicapped, to the maximum extent appropriate. The issue of LRE is a national as well as a state concern. According to the recently released Eleventh Annual Report to Congress on the Implementation of P.L. 94-142, Illinois ranks ninth highest in its rate of placing students in separate schools and residential facilities. The reasons for this position are many. Among them is the historical development of special education as a separate system apart from regular education. During the 1950s and 1960s, most educators believed that handicapped children should be separated from their peers in order to provide more individualized, intensive services. School districts were encouraged and provided incentives to build separate facilities where these separate services could be delivered. This resulted in many handicapped students, particularly those with severe and profound handicaps, being educated in separate facilities based on the disability, rather than individualized needs.

Since the 1960s an abundance of research which demonstrates and defines good education and how best to implement it has been completed. Despite the research, technology, and expanded knowledge of how to provide good education, hundreds of our students do not have options open to them other than to go to school in a special school or separate wing of a school where they seldom, if ever, have an opportunity to relate to their peers who do not have handicaps. Failure to provide these students with options along a continuum of integrated settings is not only inappropriate educational practice, it is antithetical to the principles of the law. In an effort to demonstrate the effectiveness of this research and establish choices for students where none existed, Illinois began an initiative whereby schools could apply for assistance and receive support in implementing educational options for students.

All students in these programs continued to receive the necessary specialized instruction and related services needed to minimize the adverse effects in educational performance caused by a disability, in an educational setting as close as possible to the educational setting the child would attend if not handicapped. The projects have demonstrated the positive outcomes of integrating nonhandicapped with handicapped students, developing functional and community-based curricula, and providing transition services which include preparation for supported employment in integrated community jobs. Forty-five local education agencies are now involved in these projects. Through the coordinated efforts of the Illinois State Board of Education and the Department of Rehabilitation Services, all students graduating from these programs will be prepared for competitive employment. The interagency support demonstrated in this project is deserving of commendation. Efforts such as these demonstrate that the principle of LRE is viable, appropriate and effective in insuring that our students become productive citizens.

The broad issue of educational accountability has an impact on both general and special education. The ability of our schools to prepare students for adult life and employment is being seriously questioned, as evidenced by the numerous national and state studies and reports calling for educational reform. Nationally, twenty-three percent of the youth with disabilities who have been out of school less than one year work part-time for pay and twenty-two percent work full-time. Special education must be more accountable to the students it serves and the community in which they live. The outcome for special education must be preparation of students to become productive adult citizens who can think, learn and get along with others to the best of their ability. Teaching methods and strategies, curriculum, teacher preparation, and learner outcomes require our immediate attention. Transition from school to working life must be an outcome-oriented process encompassing a broad array of services and experiences that lead to employment.

One area of which Illinois is very proud is its ability to appropriately serve in the least restrictive environment students who have a hearing impairment. Approximately 3,250 children and youth, ages 3-21, are hearing impaired. In addition, 730 students identified as having multiple handicaps have hearing impairments. Over 90% of these students are placed in public school settings. Of the remaining number, 255 students (approximately 7%) are enrolled at the Illinois School for the Deaf, a state residential facility. Of Illinois' hard of hearing and deaf students 83% graduate with diplomas, compared to only 60% nationally (Report to Congress). Although concerns have been raised in Illinois, as well as in other states regarding least restrictive options of students with hearing impairments, minimal requests for due process hearings have been received (two for students who are deaf and seven for students with hearing impairments). While for some populations the issue of least restrictive environment has been difficult to implement, the provision of options for students with hearing impairments has been a success story.

In Illinois, local program enrollments for deaf students have declined by approximately 20% over the past three to four years. A similar rate of decline has also been experienced by the Illinois School for the Deaf and is partially attributable to the graduation of those students who became deaf due to the rubella epidemic of the mid 1960s. In addition with the passage of P.L.94-142, most residential schools for the deaf have experienced declining student enrollments due to the development of comprehensive local educational programs for the hearing impaired. While the total number of deaf students nationally has declined by 22% from 1978-86, the number served in local school settings has increased.

Recognizing the unique needs of deaf and hearing impaired students, the Illinois State Board of Education established a special task force on the hearing impaired in cooperation with the Department of Rehabilitation Services and the Illinois School for the Deaf to address them. We have reviewed the recommendations of the Commission on the Education of the Deaf Report to Congress and developed a comprehensive plan to follow up on state-specific recommendations made by the Commission. Among these are establishing compliance and program reviews of local programs, developing recommended practices and procedures, training state staff in sign language, and supporting legislation to allow educational programs to offer American Sign Language to students for foreign language credit.

In order to teach students to become productive citizens, schools must be able to employ staff who are qualified and capable of providing the instruction and services needed. Illinois is facing a critical need in this area, which has not been supported through the implementation of P.L.94-142. While several federal studies have addressed the regular education supply and demand issue, little has been done on the needs of special education. Although there are now federal grants to collect data, these projects will do little to resolve the immediate supply demands. A 1988 survey of our Directors of Special Education revealed 425 vacancies, with the greatest need for speech and language clinicians, teachers of the behavior disordered, bilingual special education personnel, occupational therapists, school social workers and psychologists. While Illinois has identified some short-term strategies for schools to consider when faced with these shortages and long-term recommendations for addressing them, the federal government has not taken the lead in responding to this national need. Little has been done to enforce the Comprehensive System of Personnel Development, as required by the law. Further, the establishment of the highest standard will accentuate the already critical shortage of personnel in areas which are already grossly underrepresented, e.g. speech and language and related services.

To address the severe shortage of speech and language clinicians, Illinois convened a task force which developed recommendations to make regulatory revisions and modify the service delivery and staffing patterns. It specifically addresses screening, eligibility criteria-caseload, continuum of services and support personnel. It is an excellent example of compromise and balance between the need to maintain the highest standards of professional competence and the need to serve students with identified handicaps when adequate numbers of individuals who meet those standards are not available.

Next, I would like to address the provision of technical assistance to states. The law currently provides regional resource and federal centers to provide consultation, technical assistance, and training to state education agencies. The services provided by the Centers are to be consistent with the priority needs identified by the states. While the law states the services of the Center should be driven by State needs, it has been our experience that the system is controlled by the Center. Each Center is to employ staff who have expertise and training in specified areas. The current system strongly controlled by OSERS with a center approach does not allow the system to be responsive to the immediate needs of the State when the necessary resources are unavailable from the Center which serves the particular state.

I am confident that Congress intended to provide a system which could be immediately responsive to the needs of a state. This is one of the few areas of the law which is not being implemented as intended. I would propose that revisions to this section be made to insure implementation as intended. For example, language should be added which indicates the Center will utilize criteria which places priority on activities which address the needs identified in the State Plan for P.L. 94-142. The applicant for the grant to become a Center should also have to demonstrate expertise and familiarity with current research and best practice in the field of special education and be willing to provide to the states verification of these qualifications. Centers should also be formed based on common needs of states, rather than geographic representation. The system and Center should be able to be more responsive to emerging needs and priorities.

Meeting the educational needs of the classes of the year 2000 and beyond will look very different as we begin to examine the changing enrollment patterns. For the school year 1987-88, the proportion of minority students in Illinois public schools was 33%. This proportion of minority students is expected to increase to 43% by the year 2000. While special education enrollment is projected to increase, nonhandicapped enrollment in Illinois schools is projected to decline to the year 2000. Therefore, the need for educational resources, particularly for minority students, will not decline due to the proportionate increase in special education students. Particular attention will need to focus on services to linguistically and culturally different minorities. The Illinois Public School Bilingual Census shows a total of 119 languages are spoken by students in our schools. Several judicial decisions and Public Law 94-142 have prompted educators to address concerns of appropriate identification, assessment and placement procedures for this population. Promotion of proper identification and evaluation procedures is necessary to assess the educational needs of children in a way that distinguishes between language and cultural differences from problems resulting from language disorders or cognitive or intellectual difficulties. Creating a level of awareness and understanding among educators of the needs of these students, enhancing the skills of staff to ensure these students receive appropriate assessment and programs, establishing model service delivery systems, training parents of these students to actively participate in planning their child's education, and recruiting sufficient bilingual-bicultural personnel to meet the demand are areas which require state and federal leadership.

Two emerging issues which will have a devastating impact on the special education enrollment relate to the use of drugs in America. The first is the overwhelming data on infants born with the Acquired Immunodeficiency Syndrome (AIDS). The first case of pediatric AIDS was reported in 1983. It is estimated that over one-half of the women bearing children at risk for contracting infection in utero did not know of their disease at the time of delivery. Mothers become infected either through intravenous drug use (60%) or because their sexual partner was HIV-infected (40%). In these cases, the sick child became the marker for an entire undiagnosed family. The majority of children are diagnosed during the first two years of life (74%). The overall mortality in these children during the first two years is 35%, but among those with the full-blown syndrome it is as high as 74%. These children often exhibit signs of neurological dysfunction. Developmental delays which may be the initial presentation often signal the presence of central nervous system involvement. This may eventually result in loss of developmental milestones, intellectual deficits, and impaired brain growth. The clinical picture of HIV infection is, however, quite variable in children. Its adverse effect on neurological functioning and development in children is clearly established. Although data on infants born with the antibodies to the HIV virus is currently being conducted, clearly all of these children will be eligible and placed in special programs. However, what we must also understand is that these dying children will also in all likelihood have a dying family member. The availability of comprehensive medical and rehabilitative services for this newly emerging group of developmentally delayed children and their familes must be assured in the future. A coordinated effort among health, education and other human services must be available to deal with the complexities of HIV-infected children. Optimal intervention must be continuous with newborn and infant services. Comprehensive maternal, child, family health and educational intervention in a central site must be provided.

The second related issue is the number of infants born to mothers who use drugs and alcohol during pregnancy. In a survey of high school seniors in the United States, two-thirds of them reported they "saw no problem" with experimental use of cocaine. Considering that even an occasional recreational or one-time use of cocaine during pregnancy can adversely affect the unborn child, it is likely that the number of drug-affected infants will reach epidemic proportions. Illinois data concerning drug use during pregnancy is incomplete at this time. However, of the 13,023 infants who were reported to the Illinois Department of Public Health Adverse Pregnancy Outcome Reporting System last year, 510 infants had diagnosis of maternal drug use during pregnancy. An additional 54 infants have been reported as having fetal alcohol syndrome since IDPH began collecting data one year ago. An IDPH news release indicates actual numbers are triple. IDPH has indicated that rules are currently being developed that will require drug testing of all newborn infants. The results of this testing and the research presently available will assist educational planners in developing the training and services necessary to meet the needs of this population.

In summary, it is our experience that P.L. 94-142 is working. While once there were many underserved or unserved students, it is believed that all students who require special education services are receiving them. The Law, however, is not perfect and requires modifications based on over ten years of implementation experience. It also requires that we continue to be visionary to assure that we are prepared to serve students who will be identified as requiring special education intervention in the future. The federal government can assist states by providing the necessary leadership and resources to adequately meet all students' needs. The special needs of the expanding population, particularly children born with AIDS and drug-affected infants, will demand additional fiscal resources. The continued vigilance by Congress and strong monitoring are necessary to assure that the Law is implemented as the Congress intended.

Senator **Simon**. Thank you. Beth Langen, very happy to have you here.

STATEMENT OF BETH LANGEN, DEPUTY DIRECTOR, BUREAU OF REHABILITATION SERVICES, SPRINGFIELD, IL

Ms. **Langen**. Thank you. Thank you for the opportunity to testify on behalf of the Department of Rehabilitation. What I would like to do is speak very briefly about transition efforts. I have written testimony that describes it in more detail. I would be happy to provide additional detail at your request.

The process of moving from one setting or one agency's services to another has become one of the most widely discussed concepts in special education and rehabilitation. The emphasis that was placed on the education of the handicapped amendments, and recent initiatives by OSERS have created a national interest.

Transition programs that lead to community adjustment, to competitive employment, and a full integration have long been a priority of DORS. We have cooperated with local education agencies, special education, and vocational education for the last two decades, through two programs, the Secondary Transitional Experiences Program and the Vocational Adjustment Counselor Program. Through these programs approximately 9,000 kids with disabilities in school have work experiences while in school.

Also through DORS, Illinois has been 1 of 21 States with the Next Steps, Planning for Employment Program. It is a program that trains parents to be advocates for their children. Teams comprised of parents, service providers and rehabilitation professionals teach parents to be their kids' advocates, inform them of their rights and responsibilities, and help them effectively plan as important partners in deciding the career and employment opportunities of their children. Approximately 3,500 parents and other citizens have participated in this program.

Recently, we were very proud to be part of an agreement with the Illinois State Board of Education to outline cooperative arrangements for Project Choices. Students who are participating in Project Choices will likely need extended support when they leave those school supervised vocational experiences. We applaud the State Board for this effort, particularly with the emphasis that it places on integrated community based competitive employment.

These and other efforts reflect a long standing concern and commitment to transition services. However, their importance has not diminished, nor has the need for us at DORS to re-evaluate our efforts. We recently began the first stages of a strategic planning initiative. The first stage of that effort was to identify critical issues. We did that by asking the stake holders, over 200 parents, organizations, people with disabilities, service providers, and all levels of staff. The number one critical issue facing DORS that was identified was transition. There were many other critical issues but there was not a close second to transition.

Current provisions and interpretations of Public Law 94-142 while sufficient for those States, such as Illinois, that have made transition a priority, could perhaps be strengthened through some modifications. They would enhance our efforts and I believe provide additional impetus for a national effort in transition. Our experience with special education, with the State Board of Education, with the State Boards ad hoc committees on data collection, and the Illinois State Transition Advisory Committee provide us with the basis for offering the following recommendations.

I will just briefly present them, the rationale is included in the written testimony. The first is that the department suggests the inclusion of a statement in the contents of Regulation 300.46, the Individualized Education Program, that allows for early transition planning with adult service providers without holding the LEA responsible for providing the post-school services necessary for a successful transition.

The 1983 reauthorization of the Education of the Handicapped Act requires the education service system to collect data on the number of youth with disabilities exiting the school system and their service needs when they leave. The department recommends a review and revision of the existing data form and format. The Department of Special Education has formed an ad hoc collection committee which has done extensive work on this. We suggest their recommendations be referenced in revising that form.

Third, the department would like to re-emphasize State Board of Education's concern with personnel. It is extremely important to continue support of both in-service and pre-service personnel training in the area of transition.

We would recommend priority funding be provided to accomplish both local level training and post-secondary preparation of personnel in the area of training transition.

Another area of need very closely related to transition, though not specifically included in Public Law 94-142, is one which we would like to point out. And that is the growing need for support for those who continue to exit educational systems, that is Federal dollars for continued growth in the supported employment program. In Illinois, the Department of Rehabilitation has acquired some State dollars for fiscal year 1990, for supported employment efforts. State dollars also through the Department of Public Aid are going into an integrated employment initiative for both short term and long term supported employment efforts.

We would recommend consideration of additional supported employment funding from the Federal level so that we can continue to provide access, and expand access to supported employment for students who are exiting the school system so that the services that they need will be available, now that the schools have prepared these students for such work.

The process for smooth transition is not a simple one. It is going to require us to develop and implement meaningful work, residential and recreational options. It is going to require all of us as professionals and parents to redefine our goals and our responsibilities and to work in partnership with each other. The foundation of all of those efforts is a shared belief that people with disabilities can and should contribute to their community and experience full integration with their nondisabled and disabled peers, as adults. That foundation in Illinois is firm and the challenge before us today is to make it happen.

In closing, we at the Department of Rehabilitation wish to commend you and other members of Congress for realizing the importance of more and of improved transition opportunities for students with severe disabilities. We are also very proud of and committed to the partnerships that exist in Illinois. It is a concept that needs more information, more study, more support, more funds, not only for special education, but vocational education and rehabilitation.

We stand ready to participate in new endeavors and to continue the partnerships and the established tradition of cooperative involvement in meeting those transition needs.

Thank you again for the opportunity.

[The prepared statement of Ms. Langen follows:]

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PREPARED STATEMENT OF ELIZABETH LANGEN

First let me thank you for the opportunity to address you today on an issue of tremendous importance to the Illinois Department of Rehabilitation Services (DORS) and to all persons with disabilities. I would like to very briefly describe DORS' position regarding transition in Illinois, and present our recommendations for possible amendments to Public Law 94-142, the Education of all Handicapped Act, related to State's transition efforts. These abbreviated comments are explained in greater detail in our written statement. We would also welcome the opportunity to provide greater detail, at your request.

Providing Options for Independence

The process of moving from one setting or agency's services to another, is one of the most widely discussed and written about concepts in special education and rehabilitation today. The emphasis on transition in the Education of the Handicapped Amendments (P.L. 99-457) and recent initiatives by the Office of Special Education and Rehabilitative Services (OSERS), have created national interest in developing opportunities for students who are preparing to leave school.

Transition programs leading to community adjustment, competitive employment, and full integration have long been a priority in Illinois. DORS has cooperated with local educational agencies, special education and vocational education for the past two decades through its Secondary Transitional Experiences Program (STEP) and the Vocational Adjustment Counselor Program (VAC). These programs annually serve approximately 9,000 severely disabled youth who are in or who have just recently completed their secondary education.

Under DORS leadership, Illinois is one of 21 states with the parent self-help program, "Next Steps: Planning for Employment". Next Steps trains parents to be advocates for their children with disabilities. Community volunteer teams comprised of parents, service providers, and rehabilitation personnel inform parents about their rights and responsibilities, and help them effectively plan for their child's career and employment opportunities. Over 3,500 parents and other citizens have benefited from this program.

Most recently the Director of DORS signed an agreement with the Illinois State Board of Education outlining cooperative arrangements for Project Choices. Students participating in Project Choices will likely be in need of extended support in order to make a successful transition from their school-supervised vocational experiences to the world of work. We applaud the State Education Agency in Illinois for their leadership in the development of Project Choices, and particularly for the emphasis Choices has on integrated, community-based competitive employment.

These and other efforts are reflective of a long-standing concern with and commitment to transition services. However, their importance has not diminished, nor has the need for us to constantly re-evaluate and improve our efforts. DORS recently began the first stages of an Agency strategic planning process. Input was solicited from over 200 stakeholders -- parents, people with disabilities, service providers, all levels of staff -- in order to identify the critical issues we as an Agency presently must address. Transition from school to work was far and away the number one critical issue. While there were many others, there was not a close "second".

The current provisions and interpretations of P.L. 94-142, while sufficient for those states who have made transition a priority, could be strengthened through some modifications. These would enhance our efforts and provide additional impetus for a continued nationwide effort in transition. DORS' experiences with special education joint agreements, school districts, administrators of special education, the Department of Special Education's ad hoc committees on data collection and special education personnel development, and the Illinois State Transition Advisory Committee, provide us with the basis for offering the following recommendations:

Rationale, #1

Dr. Frank Rusch, Director of the Secondary Transition Intervention Effectiveness Institute, analyzed over 200 model transition programs. He notes that there are several common characteristics emerging that appear to positively influence the successful transition of young adults with disabilities from school to work. They include: 1) planning well in advance of graduation and 2) developing an individual transition plan. The problems with implementation have centered around the inclusion of transition goals, objectives, and projected post-school services, ultimately the responsibility of an adult provider, either in or in conjunction with the Individualized Education Plan (IEP). Many LEA's interpret this to mean they could by held legally responsible for providing the post-secondary services.

Recommendation #1

The Department suggests inclusion of a statement in the contents of Individualized Education Program, Regulation 300.46, that allows for early transition planning with adult service providers without holding the LEA responsible for providing the post-school services necessary for a successful transition.

Rationale, #2

The 1983 reauthorization of the Education of the Handicapped Act requires the education service system to collect data on the number of youth with disabilities exiting the educational system and their anticipated service needs. The subsequent reauthorizations of the Developmental Disabilities Act and the Rehabilitation Act require state agencies to incorporate into their state plans the exiting data collected by the State Education Agency. The regulation and forms specify the categories of need to which the LEAs must respond. This list of needs is practically a verbatim list of services provided by State VR Agencies. These services are not readily understood by the persons completing the information. Nor does the list provide adequate coverage of other needs such as mental health services, support in independent living, referral for medical services, the need for accessible transportation, and housing. Experience has shown the exiting data collected is questionable and possibly invalid if used to justify future services and resources. Thus, future justification for funding and program assistance could be jeopardized if Congress, in fact, uses this information as submitted to justify authorization of funding.

Recommendation #2

The Department recommends a review and revision of the exiting data form and format. The Illinois Department of Special Education and its ad hoc data collection committee has done extensive work on this. We suggest their recommendations be referenced in revision of the form.

Rationale, #3

The Department feels it is extremely important to continue support of both in-service and pre-service personnel training in the area of transition. In-service is a major vehicle for preparing personnel in the area of transition. Cross training among the various disciplines and agencies provides an important exchange of information necessary to cooperative planning.

While funds have been available on a limited basis in the past, we see the need for more cross disciplinary training opportunities at the "grass roots" level; i.e., local educators (special, general, vocational), community employers, rehabilitation counselors, and parents. Transition programs are in need of many new or rather "emerging" types of staff; e.g., job developers, job coaches, supported employment specialists, transition planners. These are not the traditional established special education personnel for which programs are established and funded. Further, there is an increasing need for cross-disciplinary training among special education, vocational education and rehabilitation.

DORS and the State Board of Education will begin this type of training for school staff, parents, and rehabilitation staff on a limited basis this fall. With the stronger emphasis on transition in IEPs and due process rights now included in the "Applied Technology Education Amendments of 1989" (reauthorization of the Carl Perkins Act) there will be an even greater need for cross training and retraining of professional vocational and special education personnel at the secondary and post secondary levels.

Recommendation #3

The Department recommends priority funding be provided to accomplish both grass roots training on local levels and post secondary preparation of personnel in the area of transition.

Rationale, #4

Another area of evidenced need relating to transition is the need for national support in funding the supported employment initiative. There will be a growing need for support for those who continue to exit educational systems. Federal dollars have been allocated to establish short term support for persons previously unable to participate in competitive employment. But the long term support has been left to individual states. DORS has secured additional state funds for supported employment in SFY'90 and the Illinois Department of Public Aid has funded special Integrated Employment Projects for short-term and long-term support. However, there will still be an unmet need because of the increased number of students with severe disabilities leaving school and not having access to the work force, community living, or recreational options. Other states may not have the same opportunities as Illinois. Thus, inconsistency in program development will continue to exist throughout the country. And many individuals with severe disabilities exiting school systems may not be able to access continued support in employment.

Recommendation #4

The Department recommends consideration of authorizing additional supported employment funding to provide immediate access to supported employment for students exiting schools who need these services.

The availability of a process that assures smooth transition without gaps in services after school is not simple. It involves developing and implementing meaningful work, residential and recreational options. It requires professionals and parents to redefine our roles and responsibilities, and to work cooperatively with each other. The foundation of these efforts is the shared belief that individuals with severe disabilities can contribute to their community and experience full integration with their nondisabled peers. That foundation in Illinois is firm. Our challenge is to make it reality.

In closing, the Illinois Department of Rehabilitation commends you and other members of the Congress for realizing the importance of more and improved transition opportunities for persons with severe disabilities. We are also proud of and committed to the partnerships that exist in Illinois. Transition is receiving the nation's attention. It is a concept needing more information, study, action, and funds for special education, vocational education, and rehabilitation. Much has yet to be accomplished, and we stand ready to participate in new endeavors, as well as to continue an established tradition of cooperative involvement in meeting the transition needs of students exiting the educational system.

Thank you again for the opportunity to provide testimony today, and for your continued support of our efforts on behalf of persons with disabilities.

Senator SIMON. I thank you. Since you are the later person to testify, let me toss some questions at you first. What percentage of the parents are you reaching in this transition Next Step Planning for Employment Program?

Ms. LANGEN. At this point a small percentage, as the program is just getting started. It is one that we want to target for expansion and are in a position of trying to identify the funds to do so from a maintenance budget. An indication of its importance and our intentions is that for fiscal year 1990, it is our hope to have Next Step teams in each of our local areas. Each of the offices has expressed a desire. So we are just really getting started.

Senator SIMON. I might mention for the benefit of visitors and the press here. When we list categories of unemployment, we do not traditionally list the disabled. But the figures on unemployment for those who are disabled run way higher than any of the traditional categories we use. And if you compound this, it is even higher. For example, the unemployment rate among Blacks who are disabled and employable is about 82 percent. I frankly have not seen a breakdown, but I expect the figures on unemployment of Black women who are employable would go through the ceiling. Clearly we have to do a better job in this whole area.

Your Illinois State Transition Advisory Committee, who appoints that?

Ms. LANGEN. I am not sure who appoints that.

Dr. SONTAG. I think it is joint, Senator, between several agencies. It is made up of many agencies.

Senator SIMON. I would be interested when they provide an annual or semi-annual report in getting a copy of that. Both of you mentioned the need for personnel. In your case, you talk about personnel in the area of transition. If I may address this question to both of you. We are facing a shortage of teachers, in general. It has not hit us yet, but it will be hitting us very shortly. It has hit some areas already. That is going to be particularly severe in this area of special education. One of the arguments that was used against us when we created Public Law 94-142 was we were not going to have the trained teachers for it, and we would lower the quality of education in the process.

One of the interesting things is that while we may not have been able to get all of the teachers we wanted, we have not lowered the quality. We have improved the quality of teaching since the passage of that legislation. But how do we recruit young people to go into this area—get students enrolled at the University of Illinois or Southern Illinois University to say that want to go into this area? What do we do?

Dr. SONTAG. There are probably three or four things that I would suggest, Senator. First of all, I think we need to once again look at Public Law 94-142. There is a major section on recruitment of teachers. That particular area of the act has been under-funded and there has not been much energy put into it. But second, there is a part of the act called comprehensive system personnel development, and largely the U.S. Department of Education ignores that part. Federal grants to colleges and universities bypass much input from State education agencies or local education agencies. There is little coordination. You can go to neighboring states and they have a surplus in areas where we desperately need teachers.

There needs to be more attention to CSPD. I think that would dramatically increase the number of teachers. And then finally, I would suggest that we take a close look at the priorities of the Division of Personnel, at how they allocate approximately $65 million to $70 million annually. I think much of that money is going for transitory priorities and not for the basic part of our business which is to provide instructional personnel and instructional services for handicapped children. And I would say that that program should essentially have a return to basics, which is the preparation of teachers for handicapped children in this Nation.

Senator SIMON. Anything you want to add there?

Ms. LANGEN. Another training issue and personnel issue that we are seeing at the Illinois Department of Rehabilitation is the training of our staff, adult service providers, in the skills and information they need to assist parents and kids in making that transition and the linkage. It is a matter of becoming familiar with the education system. I think the two systems need to get familiar with each other; cross training is going to be a key issue and it is something that we are going to begin to see this fall with our agreement with Project Choices.

Beyond that, I think that I would reiterate what Ed said. And say also that as the importance of education and the importance of eradicating a 66 percent overall unemployment rate for kids with disabilities continues to emerge, I am hoping that the need for those persons will become more clear and that colleges, universities and perhaps we as service providers will also solicit more interest in the field.

Senator SIMON. You talk about the drop out rate, Dr. Sontag. Is the high drop out rate in special education program in the same schools where we have a high drop out rate generally?

Dr. SONTAG. Yes, it is. We do not see significant differences.

Senator SIMON. So that what we really have to do is address the total drop out rate.

Dr. SONTAG. And within that address some marginal issues in special education, such as the lack of jobs available for children who graduate.

Senator SIMON. You mentioned the AIDS children. What kind of numbers are we talking about in Illinois?

Dr. SONTAG. The best data that I would share with you right now is soft, but it is our understanding that there are probably right now in Illinois some 50 infected AIDS children who are about school age. The best informed people I have talked to tell us that we are seeing the tip of the iceberg. That we are probably facing several hundred children with AIDS coming into Illinois schools in the future. All of these children will be special education children.

Senator SIMON. Are we doing anything to prepare for the fear out there, the unreasoned fear among parents and community, to gain acceptance of an AIDS child going to school? Do you work with school districts on that?

Dr. SONTAG. Yes, sir. As a matter of fact, one of the activities that we have just initiated and hopefully will conduct is a meeting for local school systems in early September on this. We need to educate people that AIDS children can come into schools, AIDS children can be hugged, AIDS children are going to need education and we are going to need to provide it. And there are going to be some particular issues that we are going to have to address. Some of these children are going to present incredibly unique problems to us. The AIDS child who is also, as we say in education, a "biter", an aggressive child, is going to be a very difficult child for us to handle. But we are going to make our best effort and try to do it.

Senator SIMON. Then finally you mentioned that you have to send some students out of State. We have communities that are yearning for industries and employment. One of the areas where some of the communities might be of help is to pull together people who can provide these kind of facilities and provide employment. In sending people out of State is it primarily emotionally disturbed?

Dr. SONTAG. Certainly it is the number one category that we send out of State.

Senator SIMON. What would be the other categories?

Dr. SONTAG. The other categories are the category of multiply handicapped, severely mentally retarded. The mildly handicapping conditions are very rarely sent out of State, particularly room and board situations.

Senator SIMON. Well, we thank both of you for your testimony and for your leadership. We are very, very grateful to you. Thank you.

Our next panel is composed of four people, Diane Crutcher, who is with the National Down Syndrome Congress; William Peters, the parent of a deaf child, from Sycamore, IL; Joan Kuhn, the parent of deaf children, from Ursa, IL, and Marion Dodd, with the Association for Learning Disabilities in Dundee, IL.

We thank you all for being here. I am going to take you in the order you are seated there. Ms. Dodd, I'm very happy to have you with us.

STATEMENT OF MARION DODD, ASSOCIATION FOR LEARNING DISABILITIES, DUNDEE, IL

Ms. DODD. Thank you, Senator Simon. I am speaking on behalf of 1,200 members of the Illinois Association for Citizens with Learning Disabilities, and all volunteer parent professional organizations dedicated to the support and improvement of programs for the learning disabled.

Learning disabilities affect, as you know, 11 percent of the population and account for about 43 percent of the special education population. It is clear that the prevalence is somewhat higher in socioeconomically disadvantaged groups, and higher in males than in females.

With respect to the Education of Handicapped Act, this statement identifies the following six major problems encountered by parents of the learning disabled statewide, metropolitan and otherwise. They are: inadequate services and facilities; lack of understanding; lack of communication; reticence of parents; transition services, and the regular education initiative.

Twenty-five years ago, many individuals would have flatly denied the feasibility of instituting in every school system in this country a program of individualized education. "Utopian," they would have said. Yet, this was done within a few years of Public Law 94-142's implementation. Public Law 94-142 has demonstrated that for at least one group of children, the LD, a Federal initiative can result in significant reform at the local level.

The success of Public Law 94-142 is dependent on two things: the availability of programs, and the ability to access them.

Unquestionably, geography, where a student lives, is both a powerful correlate to problems of understanding, communication and services, and interestingly, an important factor in explaining high rates of certain kinds of complaints against schools.

Many of these problems are endemic to Chicago schools as well as downstate schools. Because of Public Law 94-142's bias toward the regular classroom enrollment, districts who experience reduced tax bases and/or personnel shortages, find it expedient and even lawful to place LD children in mainstream regular education classrooms and provide only resource room help, when in fact, the children may need a self contained classroom. The resource room may be nothing more than one full study period a day, and sometimes the best that can be said is that it is tutorial. Tutoring does not teach children how to learn. It may help a student graduate, but it will not stand him in the best stead for the other three-quarters of his life.

There is a specific lack of programs for high school students. A student first experiencing difficulty at the high school level will rarely be referred for testing unless he manifests behavioral problems.

In Chicago, personnel shortages have created long lists of students waiting for assessment. Teachers do not even bother to fill out referral slips. I am assuming, of course, that ~~the~~ long history of Federal on-site monitoring by OSERS teams would have made these institutional abuses known. Throughout the State personnel vacancies make appropriate service delivery extremely difficult. Critical in Southern Illinois is the lack of speech therapists and school social workers.

There is a lack of knowledge and training that causes frustrated youngsters to be misidentified as behavior disordered, and conversely, children whose emotional problems interfere with learning to be identified as learning disabled. The behavior disordered are perhaps the most under served population. In the absence of accurate prevalence figures, it is estimated that the BD population is about 3 percent and we are serving only ½ to 1 percent.

We see the ills of society reflected in these children. Some school districts use programs for LD/BD as wild cards, assuming that because of emotional overlays all LD are going to become behavior disordered. Then these cross categorical programs become dumping grounds. In Chicago, unidentified LD students are those most frequently suspended and expelled. Lack of understanding that there is a problem because those children have never been served, and ignorance of court decisions such as Honig vs. Doe, contribute to what the Children's Defense Fund say is the highest suspension and expulsion rate in the Nation. The issue of placement between

LD and BD classes accounts for 60 percent of the due process hearings in this State.

School communications are often written in hard to understand language and contain acronyms unfamiliar to parents. Many parents do not have the knowledge or skills to effectively advocate for their children's educational needs. While Public Law 94-142 specifies parent involvement and consent in planning of a child's educational program, in Southern Illinois particularly, there is a serious lack of self help or advocacy organizations directed at the unique needs of parents of children with learning disabilities.

Families in rural areas encounter especially difficult barriers because of travel time and distances. These families may not be able to play an active role in their child's education and treatment. Many parents are reluctant to become involved because educational matters have traditionally been considered properly left to education professionals. Advocates are few and far between and many parents who do advocate assertively for legitimate educational needs are often treated as troublesome.

On the other hand, in Northern industrial Illinois where districts are compact, distances traveled less, and the SES levels permit the formation and sustenance of parent advocacy and self help groups, schools are reported to be cooperative and in-service programs is high.

Senator SIMON. I hate to interrupt. We will put the full statement in the record, if you can summarize the balance.

Ms. DODD. The point is, that knowledge of one's rights with respect to special education and due process is a function of where you live and what you know.

Senator SIMON. All right. Thank you very, very much.

[The prepared statement of Ms. Dodd follows:]

PREPARED STATEMENT OF MARION L. DODD

Special Education: Its What You Know and Where You Live

Mr. Chairman and Members of the Subcommittee:

I am Marion L. Dodd, speaking in behalf of 1200 members of the Illinois Association of Citizens with Learning Disabilities, an all volunteer parent-professional organization dedicated to the support and improvement of programs for the Learning Disabled.

Learning Disabilities affect from 5 to 10% of the population (Interagency Committee on Learning Disabilities Report to Congress, NIH, 1987) and account for 43% of the special education population in our schools (OSEP, 1987). It is clear that the prevalence is somewhat higher among the socioeconomically disadvantaged, and higher in males than females.

> "Specific learning disability" means a disorder in one or more of the following basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak read, write, or spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic deprivation.

With respect to the Education of the Handicapped Act, P.L.94-142, this statement identifies the following six major problems encountered by parents of the learning disabled statewide, metropolitan and otherwise:

1) inadequate services and facilities
2) lack of understanding
3) lack of communication
4) reticence of parents
5) transition services
6) Regular Education Initiative

Twenty-five years ago, many individuals would have flatly denied the feasibility of instituting in every school system in this country a program of individualized education. "Utopian!" they'd have said. Yet this was done within a few years of P.L.94-142's implementation. P.L.94-142 has demonstrated that, for at least one group of children, the LD, a federal initiative can result in significant reform at the local level.

The success of P.L.94-142 is dependent upon two things: 1) the availability of programs, and 2) the ability to access them.

Unquestionably, geography (where a student lives) is both a powerful correlate to problems of understanding, communication, and services and, interestingly, an important factor in explaining high rates of certain kinds of complaints against schools.

Lack of facilities and services Many of these problems are endemic to Chicago schools as well as downstate schools.

Because of 94-142's bias toward the regular classroom enrollment, districts who experience reduced tax bases and/or personnel shortages find it expedient and lawful to place LD children in mainstream regular education classrooms and provide only resource-room help, when in fact, the child may need a self-contained classroom. The resource room may be nothing more than one full study period a day, and sometimes the best that can be said is that it is tutorial. Tutoring does not teach children how to learn. It may help a student graduate but does not stand him in good stead for the other three-quarters of his life.

There is a specific lack of programs for high school students. A student first experiencing difficulty at the high school will rarely be referred for testing (psychoeducational diagnosis) unless he manifests behavioral problems.

In Chicago, personnel shortages have created long lists of students waiting for assessment. Teachers don't even bother to fill out referral slips. I am assuming, of course, that the long history of federal on-site monitoring by OSERs teams would have made these institutional abuses known. Throughout the state personnel vacancies make appropriate service delivery extremely difficult. Critical in Southern Illinois is the lack of speech therapists and school social workers.

Lack of understanding There is a lack of knowledge and training that causes frustrated youngsters with learning problems to be mis-identified as Behavior Disordered, and conversely, children whose emotional problems interfere with learning to be considered Learning Disabled. The Behavior Disordered are perhaps the most under served population. In the absence of accurate prevalence figures, it is estimated that the BD population is about 3 percent and we are serving half of to one percent We see the ills of society reflected in the children more and more. Some school districts use programs for LD-BD as wild cards, assuming that because of emotional overlay all LD are going to become behavior disordered. These cross-categorical programs are dumping grounds. In Chicago, unidentified LD students are those most frequently suspended or expelled. Lack of understanding that there is a problem because those youngsters have never had services, and ignorance of court decisions such as *Honig vs. Doe*, contribute to what the Children's Defense Fund say is the highest suspension/expulsion rate in the nation. The issue of placement between LD and BD classes accounts for 60% of the due process hearings in this state (ISBE,1989).

Lack of communication School communications are often written in hard to understand language and contain acronymns unfamiliar to parents. Many parents do not have the knowledge or skills to effectively advocate for their children's educational needs. While 94-142 specifies parent involvement and consent in planning of a child's educational program, in Southern Illinois particularly, there is a serious lack of self-help or advocacy organizations directed at meeting the unique needs of parents of children with learning disabilities.

Parent reticence Families in rural areas encounter especially difficult barriers. Because of travel time and distances, these families may not be able to play an active role in their child's education and treatment.

Many parents are reluctant to become involved because educational matters have traditionally been considered properly left to the educational professional. Advocates are few and far between and many parents who do advocate assertively for legitimate educational needs are often treated as troublesome.

On the other hand, in Northern industrial Illinois where districts are compact, distances traveled less, and the SES levels permit the formation and sustenance of parent advocacy and self-help groups, schools are reported to be "cooperative" and parent satisfaction is high. Organized parent groups provide inservice programs for district teachers and administrators as self-supporting projects in Northern Illinois.

The point is that knowledge of one's rights with respect to special education and due process is a function of where you live and what you know and not the result of benevolent responses to individual need. P.L. 94-142 creates a clear bias in favor of informed parents, with provisions like parental consent, the IEP, and due process rights.

Clearly, the districts are the most accessible to remedy these problems. In an ISBE 1987 federal grant plan survey, 84 joint agreements, co-ops, and individual districts reported in a self-study that 75% needed more inservice for parents(ISBE, 1987).

We propose therefore, Senator, that Part D monies for parent training and teacher-administrator inservice should be expanded.

Transition Another area I wish to address is transition. Handicapped youths who remain in school to age 21, rarely have access to services that will help them make the transition to adult life. The concept of transition planning for high school students calls for a plan preparing the student for further education, training or employment after high school. During the past decade there has been a clear and understandable focus of attention and resources on serving people with the most severe disabilities. Unfortunately, this has occurred at the expense of services to the milder but still significant disabilities. As a consequence of this shift in emphasis, many people with milder disabilities are falling short of their potential for achieving satisfactory levels of community adjustment. Transition services will have to be reoriented somewhat toward this group, which outnumbers those with severe disabilities ten to one.

Transition services are not now mandated. They must be. It is a popular myth that those who work in special education, vocational education or rehabilitation services are working together for the same things. They don't even like each other, don't talk to each other. There is no coordination between senders and receivers. Special education administrators have very different perceptions concerning who, if anyone, is responsible for coordination.

Illinois needs 94-142 funds for the aging-out-of-school populations. There is a serious lack of long-term follow-along support. Parents have no way of knowing what is available in the way of adult services and how to access them. No one person can know about social security, SSI, 708 Referendum Bds., local housing, community services, jr. colleges, Dept. of Rehab. services, etc. We need policies that will inject all of the above into the transition plans. There is a fourteen-year backlog waiting for adult services (Sontag, 1988). We need transition specialists who will intervene in the IEP process early in the education of handicapped children and youth to help them make this leap from school to the real world.

Regular Education Initiative Another statewide concern of parents of LD youngsters is a strategy proposed by Madeline Will (USDOE,1986) for unifying regular and special education, the Regular Education Initiative (REI).

Proponents of the REI question the value of special classes and pull-out programs. They see the restructuring of mainstream classes to include the mildly handicapped (behavior disordered, learning disabled, and educably mentally retarded) as cost-effective, citing efficacy studies which compare outcomes for children with mild disabilities in a variety of settings. Fueling support for the REI is a heightened concern that too many students are being labelled handicapped.

Both sides of the debate are critical of the ways in which school districts classify students. They agree that there is considerable heterogeneity in each of the mildly handicapping conditions and that distinctions are not always clear.

A recent study of classification in 5 metropolitan districts confirms their concerns. Singer and colleagues at Harvard and Boston Children's Hospital concluded that where a child lives is a major factor in the classification they receive. They discovered wide disparity among states and districts in both their definitions and in the tests used to identify these disabilities (Singer, et al., HER,1987).

ACLD, Inc., critical of the REI, does not believe that mainstreaming done with the proper modifications would be any less expensive. They believe the research upon which it is based to be insufficient to warrant a major restructuring. They argue for more time. They argue that data from the ten-year history of 94-142, along with new knowledge about learning and teaching constitute a solid foundation for planning and research efforts.

They fear that federal funds for special education may be cut before they can develop more substantive information about what works. In the meantime students who are part of the experiment may suffer.

Further ACLD, Inc., point out that it is strange logic to call for regular education to take over responsibility for students with whom it has already demonstrably failed.

If categories are eliminated, how can resources be protected and set-aside to ensure that students with special needs receive services.

ACLD, Inc., recognizes that accommodations in regular classes may be the least restrictive environment for some identified student with specific learning disabilities and other P.L.94-142 categories, provided their needs are recognized and the students are protected under the law.

These REI proposals should not preeempt or exclude any student from the protection and safeguards of P.L.94-142 or Section 504 of the Rehabilitation Act of 1973; rather, they should work in conjunction with all the laws which guarantee a free appropriate education in the least restrictive environment with needed support services.

Illinois had the foresight to require that after 1981 all new teachers have coursework in characteristics of exceptional children (HB150, 1979), but until all regular education teachers and administrators have training to broaden their repertoire of techniques for working with a wide range of students, proposals such the REI should remain pilot programs with carefully designed studies which include control groups.

Thank you, Senator and members of the Subcommittee.

Mr. Peters, happy to have you here with us.

STATEMENT OF WILLIAM PETERS, PARENT OF A DEAF CHILD, SYCAMORE, IL

Mr. PETERS. Let me begin by thanking the Senate Subcommittee on the Handicapped for this opportunity to testify as a parent of a deaf child and also as a local director of Special Education.

On May 22, 1971, my wife and I had a son named Brian, who at the age of 13 months contracted spinal meningitis which left him with a profound hearing impairment. Today, my son, Brian, is 18 years of age and has little or no residual hearing, and no understandable speech.

I mention these disabilities because some assume that mainstreaming or integrated programming is only for students with mild disabilities.

Despite his severe disability, Brian graduated from his local high school last June with an honorable mention as an Illinois State Scholar and was accepted for admission to both Northern Illinois University and the University of Illinois.

The decision to have Brian attend his community high school where he would be the only deaf student was not an easy one. We were told by professionals working with him that he should attend either a deaf program located some 30 miles from our home, or the Illinois State School for the Deaf, ISD, located in Jacksonville, IL, which is some 6 to 7 hours drive from our home in Sycamore, IL. We visited ISD when Brian was just three years old, and were told even then that this is where Brian would be attending school when he got older. I can remember like it was yesterday how desperate that thought made me feel, and how long that return trip from Jacksonville seemed to be.

As a Director of Special Education I have witnessed first hand the benefits of placing students with disabilities in least restrictive environments. As a parent I have always fought for mainstreaming experiences for my son, and feel that his success in school is largely due to these early experiences of being mainstreamed into regular education, as well as our district providing specially trained teachers and interpreters in our local school.

In recent months I have read with dismay the efforts of some deaf adults, professionals and legislators, to sabotage the least restrictive environment provisions of Public Law 94-142 as they apply to students with hearing impairments. They argue that children with hearing impairments should not be educated in regular schools and classes because they will not benefit from these normalized experiences as do other children with disabilities.

Here in Illinois a resolution was brought before the House of Representatives that would have blocked the submission of the State Public Law 94-142 plan because it called for consideration of least restrictive environment options for all types of students including those with hearing impairments. While I cannot speak on behalf of all deaf children, my son, Brian, has benefited greatly from his interactions with nondisabled students in regular classrooms. If the LRE provisions of Public Law 94-142 did not apply to deaf students, he most likely would not have had the option to attend his local high school.

For the upcoming school year in DeKalb County over 50 percent of the students with severe hearing impairments will receive their education in neighborhood schools. These placements were made because those IEP teams looked first at least restrictive options before considering placement in out of district deaf programs. This is in keeping with Public Law 94-142, with the Illinois State Plan, and is, in my opinion, in the best interest of these students.

Many deaf adults have negative feelings about deaf students attending regular schools because they, themselves, have had bad experiences. Many were thrown into regular classrooms without interpreters and support services, many come from homes where other family members could not communicate with them. It is no wonder that they welcome the communication and education made available through State residential schools. Fortunately, many deaf children today experience a much more positive home and school environment. My wife and I, along with Brian's younger sister Allison, have been enrolled in over half a dozen sign language classes and use total communication whenever Brian is in our presence. In Brian's freshman year at Sycamore High School, 52 of his classmates gave up their study hall to take sign language classes being offered by his interpreter. Brian is not alone. At least four other families in DeKalb County reported similar experiences.

The purpose of my testimony is not to argue for the closing of deaf schools or programs. Indeed, many students from DeKalb County continue to benefit from such placements. I am asking only that persons with hearing impairments continue to be afforded the same protection under Federal law as are other persons with disabilities. Deaf students should not be placed into out of district or State residential placements if their needs can be met in less restrictive placements.

Thank you again for this opportunity to testify.

Senator SIMON. I thank you, Mr. Peters. Mrs. Kuhn.

STATEMENT OF JOAN KUHN, PARENT OF A DEAF CHILDREN, URSA, IL

Mrs. KUHN. Thank you also for letting me testify this morning. My husband and I live in Ursa, IL, with our six children. Three of our sons are 13 year old identical triplets who are profoundly deaf.

Since I have experienced the different types of programs for hearing impaired children, I would like to make a few statements regarding deaf education and Public Law 94-142, including the least restrictive environment.

The number one goal that we have for our three sons, as well as our hearing children, is that they be socially well adjusted and that they lead full productive lives. An essential step toward this goal is a good solid education.

Curt, Craig and Chris were diagnosed and evaluated at the University of Iowa, Wendell Johnson Speech and Hearing Center, when they were two and a half years old. We were told they were profoundly deaf and have above average IQ's.

There is no deafness in either of our families so this was a new and frightening experience for us. Out of love and protection we thought our children should attend a local program for the deaf and stay at home with the family. So at three years of age our sons entered a local special education program for the hearing impaired. This was an oral program, which means they learn by lip reading and using residual hearing.

We wanted to be sure our sons were progressing satisfactorily so periodically we returned to the University of Iowa for a reevaluation. We were told each time that our boys were falling further behind and needed a deaf program with total communication, which included lip reading, residual hearing, and also the use of sign language. After much discussion, our local program began total communication. With the addition of sign language, we thought our problems were solved, but we were mistaken.

We saw our sons become more and more frustrated and bored because they were academically not challenged. They were also very isolated because there was no interaction with any of the hearing children and teachers. For some children who are mainstreamed, lowering a water fountain, making phones more accessible or installing a ramp removes the handicap. But how do you install communication? This was a school for hearing children with only a few deaf children in a room down a hall. The deaf child lives in isolation and was mainstreamed only physically, the same way a piece of furniture is placed in a room. Deafness is a more complex problem than a local education association can address.

Not knowing which way to turn at this point, we went to Jacksonville to see what the Illinois School for the Deaf had to offer our sons. I believe parents of deaf children should be made aware that besides their local special education program there is a State school for the deaf, which offers unlimited opportunities for their hearing impaired child. I also believe that it should be the parents' prerogative which school their child attends.

When we arrived at the Illinois School for the Deaf, we were very encouraged by how content these children were. They were not frustrated and confused because there was communication all around them, not just between the teacher and a couple of students.

We were happy to see that there were enough students with like IQ's and achievement levels to form a class beneficial to everyone.

We found that the students not only had a full academic schedule that is comparable to hearing schools, but they also had things like speech, speech reading, and independent living skills.

At ISD students are encouraged to think for themselves, to explore relationships and to question ideas under the watchful eye of trained personnel who give the student freedom yet carefully monitor their decisions. The students develop a positive self concept through daily interaction with successful deaf role models. A child's self image is an important part of maturing and being equipped to handle life.

Our sons began attending Illinois School for the Deaf when they were seven years old. Since that time they have progressed academically, gained self confidence and acquired social skills. They have completed six years at the Illinois School for the Deaf. I would like to emphasize the point that we feel ISD is a school, not an institution. There the student is the student, not the mainstream student, not the deaf student, but the student. And we believe that this is the least restrictive environment.

Senator **Simon**. Thank you very, very much. And finally, Ms. Crutcher, very pleased to have you here.

STATEMENT OF DIANE CRUTCHER, NATIONAL DOWN SYNDROME CONGRESS, PARK RIDGE, IL

Ms. **Crutcher**. Thank you, Senator. It is a pleasure to be here. My title says the Executive Director of National Down Syndrome Congress, which represents the 360,000 people with Down Syndrome in the United States. (Our office is located in Chicago; we know well the State of Illinois.) But I would much prefer to talk to you today as a parent of Mindy, 15½, who has Down Syndrome, and who receives services, ironically enough, in a community called Normal. And maybe that is part of the key to what helped us move to the point where we are with Mindy in her life.

She was born in November of 1973, and as with many of the people that you probably have heard from over the years, she was declared to be a vegetable, not worth bringing home from the hospital. We were encouraged to send her away before we got attached. She would only be a burden on our lives. We opted to bring her home because naively we did not know that there were not laws and rights to education, and that society would perhaps impose on her a qualify of life judgment. We did not realize those things and so we brought her home assuming that everybody was going to rally around to assist us, that programs would be there.

We were astonished when the first program we entered was an early intervention one that was segregated in and of itself. It offered minimal support to her because early intervention was really just beginning fifteen and a half years ago, so it is not a criticism of the program, it is a criticism of the time, I guess.

After we brought her home and enrolled her in the early intervention program we then wished to move her somewhat into a world with her "normal peers." At that point we did not know the level of her handicap and wished for her to have some exposure to children her own age. We were astounded by those who did not wish her in nursery schools, those who would not even consider her when we said Down Syndrome. They would not even allow us to come in and interview or even see her.

Finally, we found some programs that were willing to work with us and to work with her so that we could have her in a regular nursery school. We paid dearly for those privileges, both economically and emotionally, as well as timewise, but they were worth it to us. I mention those things only because my experience of least restrictive environment seems to be attached to socioeconomic status, time, ability of family, availability of services, and those things I think are not what they should be tied to.

Mindy now is a ninth grader in a regular public junior high school. She has been in regular public schools since she was five years old—certainly with lot of support services, and we have been ever grateful for those special education services.

The person who actually supported us in our first move into the regular education school was the teacher, the special education teacher. There were many other professionals around us and around her who said this will never work, she has Down Syndrome, she looks different, we have never had a child like this before in the school. What will her "normal" peers say, do, react. And what we have discovered is Mindy does as much teaching as we do. Mindy has taught us a lot over the years as she has progressed through her life. And I will close with two brief stories.

A few years ago Mindy was on her way to catch her regular education school bus at the corner, and she climbs this slight incline in order to get up to the top of the hill to catch that bus. The bulk of the regular education students were already up there, and it was the day of the transition time between winter and spring. She had on new school shoes and they were slick on the bottom. And there was a frost on the blacktop road. She fell, and I was standing at the patio door watching her. I debated whether to get in the car and go and pick her up, put her in the car and take her to the bus stop or whether I should let her go on her own to meet her normal peers, if you will, the best way that she could. She fell several times, but she got up every time. She got to the top of the hill and she got on that school bus. But before she did, she turned around and looked back toward the house. She could not see me, but she knew that I would be there. And she waved.

It was a victory for her. She had made it to the top. She did it her way. She did it with more bumps and bruises and scrapes. People did not come to her assistance. They let her do what she needed to do. We were very proud of her at that point, and quite frankly, very proud of ourselves for having gotten her to that point in life. Much of it having to do with the fact that she has been interactive with all kinds of peers throughout her life.

The key for us is the opportunity. We wish for her the opportunity to be the best she can be. We wish for every family the opportunity to access whatever educational programs they, with their professional teams, feel are appropriate for their child. None of it should be contingent on the availability of resources and availability of services in your community. As my prior colleagues have said, it should not depend on where you live, how much money you have, how much knowledge you have, how much time you have to give. It should be by virtue of the law.

And the final thing I want to mention is what Mindy told us a few months ago when we were talking about her older sister moving into a new position where she had to fill out a job application relative to interactions with children. A lot of it had to do with children with Down Syndrome. Mindy sat in the family room and listened to all of this and she said, "You know, I have Down Syndrome." And we said, "Yes, Mindy, you do have Down Syndrome." And she said, "You know, Daddy, you work for Down Syndrome with the local parent group. And, Amy, you work with us at camp and all kinds of things. And, Mom, you work with Down Syndrome all the time. And I have Down Syndrome. I want you to know I have a great life and a great family."

And it is because of opportunity.

[The prepared statement of Ms. Crutcher follows:]

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PREPARED STATEMENT OF DIANE M. CRUTCHER

Senator Simon. I am Diane Crutcher, Executive Director of the National Down Syndrome Congress and a representative of the significant population in the State of Illinois who have mild or moderate mental retardation without accompanying serious physical handicaps.

The National Down Syndrome Congress is the national parent organization for the disability Down syndrome representing the thousands of families nationwide who have a child with Down syndrome in their unit as well as extended family, friends and professionals in the field. Within 500 communities/regions across the country including 18 here in the State of Illinois, we are represented by local parent groups whose primary purposes mirror the NDSC in parent/family support and public awareness regarding all aspects of Down syndrome.

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On behalf of the 360,000 persons with Down syndrome representing the leading clinical cause of mild and moderate mental retardation in this country (approximately 600 per federal congressional district) and their families, the NDSC Board of Directors on November 18, 1988 approved the attached Quality Education For Students With Down Syndrome position statement which exemplifies the embodiment of the phrase "Least Restrictive Environment" as we believe it was intended in the letter and spirit of Public Law 94-142.

It stresses throughout the concept of **opportunity** with the hidden message being that no family dependent on their ability, understanding, time nor economic status should have to battle for the Least Restrictive Environment for their child with a handicap. Rather all children should have the opportunity, per the directive of the law, to be placed in their neighborhood school in a regular classroom with appropriate support systems. Should this placement even given family/school support and appropriate related services not prove to be productive for the child, then the next option should be considered again with the same qualifiers. Children should not by virtue of stigma, bias nor economics start at the center of the "pyramid" forcing their families into a confrontive situation with educational professionals in order to access the true "Least Restrictive Environment" which is the neighborhood school regular education classroom.

As the national organization representing parents of children with Down syndrome across this country and certainly within our home State of Illinois where we are incorporated and have our national center, we find our constituency replete with children of a variety of ages and functional levels who should not have to suffer from the inadequacies of the system nor from such a broad interpretation of the law relative to LRE. We emphasize that we should not have to select from whatever options the school district in question might have to offer. It is not our job nor that of our children with Down syndrome to "fit" the system. Rather, it is the job of the school district per Public Law 94-142 to provide a **free and appropriate public and individual** education for all children with identified handicaps.

We are calling on you, Senator Simon, as a member of the Senate Subcommittee on the Handicapped and as a long-time advocate for persons with handicaps and their families, to assist us in implementing the intent of Public Law 94-142 and the concept of Least Restrictive Environment as mentioned in that law awarding that right to families across this country by virtue of the fact that they have a child with a handicap enrolled in the public educational system. No other qualifier is necessary. The outcome is the **opportunity** to start at the "top" of the pyramid structure of LRE with appropriate supports to facilitate success in that environment (the neighborhood school and regular education classroom). This does not, sir, equate to mandation of any placement by virtue of any disability diagnosis, category nor label as that, indeed, would remove everyone's right to act in the "best interests" of the child. Rather, in the spirit and intent of the law, it offers an equitable opportunity to start at the neighborhood school/regular class level of options and work one's way appropriately through the system as need is so-designated.

Our children must stop being victims of a system that is subject to such a diversity of interpretation both familially and professionally as well as the ever-present problem of economics and where we place our precious dollars. Just as our country has identified education for "regular" students as drastically in need of improvement and, therefore, a priority so must go the positive movement of education for persons with handicaps which, in the greatest country in the world, has only been identified by law as a "right" since 1975.

We are most intersted in the nurturing of productive and happy people with Down syndrome and other forms of mild and moderate mental retardation and feel strongly that the entire family unit will be better fulfilled when they are granted their rights under PL94-142 concerning LRE with the opportunity to colleaguely partner with the educational professionals in assessing/accessing the most appropriate placement for the child without the constraints of "availability of programs"; family ability, SES, time or understanding in order to pursue.

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Pursuant to the testimony herein provided in person and in writing on July 24, 1989 to Senator Simon as an oversight hearing on the subject of Least Restrictive Environment, on behalf of persons with Down syndrome and other forms of mild and moderate mental retardation within the State of Illinois, we ask that you support the concept of Least Restrictive Environment to equate to **opportunity**. We know, Senator Simon, that we have the "right" to education but the "opportunity" continues to elude us.

Please work with us in order to accomplish for those thousands of families in Illinois let alone across this country who wish to access the most appropriate and least restrictive placement for their child with a handicap not contingent on that family's community contacts, socioeconomic status, time, knowledge base nor on the interpretation/economic constraints/availability of programs from the educational system perspective. Let us use the law as it was intended--to grant the least restrictive environment to our children with mild and moderate mental retardation as we, in tandem with the professionals who work with our children, so designate. Only then will "right" under Public Law 94-142 equate to "opportunity" for all.

Thank you for your interest in persons with mild and moderate mental retardation and other handicaps and for your insight in calling hearings to discover first-hand what is happening in Illinois. We welcome the opportunity to partner with you within Illinois as well as nationally to achieve our goal of "opportunity for all".

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POSITION STATEMENT

QUALITY EDUCATION FOR STUDENTS WITH DOWN SYNDROME

In recent years there has been a growing commitment to excellence in education and a general recognition that it is the quality of education afforded its students that is perhaps the most important predictor of a nation's future.

Like their peers without identified handicaps, students with Down syndrome have the same right to expect a quality education that prepares them for valued and productive roles as citizens of their communities. The purpose of this statement is to highlight features of quality programs for students with disabilities.

Features of quality programs are derived from several sources: (a) the large research literature on effective schools, (b) research on the development and learning capacity of individuals with Down syndrome, (c) model programs that demonstrate what is brought to bear to educate all students, and, finally, (d) values regarding the rights of individuals with disabilities and their place in the larger society.

While enforcement of the provisions of P.L. 94-142: The Education of All Handicapped Children Act and the more recent P. L. 99-457: Early Intervention Program for Infants and Toddlers with Handicaps is basic to securing quality education, there are other equally important elements. Issues critical to a quality educational program for students with Down syndrome are most strongly presented as rights of students with disabilities and their families.

1. Students Have The Right To Integrated Services In Local Schools.

   Students with disabilities have the right to attend schools in their neighborhood along with brothers and sisters, friends and neighbors who have no identified handicaps. Attending an integrated and age-appropriate school campus provides important learning opportunities for all students.

   The neighborhood school should be the planning base for decisions about educational placement. The resources of special education should be available to educate a student in his or her home school. Eligibility for special education should not be tantamount to a transfer from the neighborhood school and a long bus ride.

School assignments for students with disabilities should be as stable as they are for students without identified handicaps. Continued attendance at a local school should not depend on the availability of space for a special classroom. Once a student is assigned to a regular building, he or she should continue there as long as others in his or her age group.

As a rule of thumb, a student with a disability should not be required to travel farther to his or her school program than does a student without disabilities.

Schools should provide structured opportunities for students to take social advantage of the close-to-home placement. There should be active efforts to promote friendships and build social networks that include students with and without disabilities.

2. Students Have The Right To Be Taught Well.

There must be high expectations both for students with Down syndrome and for the professionals who serve them. Students must be expected to achieve and professionals must be expected to promote achievement.

Teachers must be trained to provide effective instruction and to accommodate individual differences. They must extend their skills as more diverse groups of students attend their schools and their classes.

School systems must provide services that students need, not only those they presently know how to deliver.

Related services (such as speech and language, occupational and physical therapies) should be brought to the student rather than sending the student to the location of services.

Principals should be prepared to advocate excellence in education for all students, recognizing that excellence is not synonymous with improved achievement on standardized tests.

Educational administrators must assume a leadership role in implementing best practices for all students.

3. Students Have The Right To A Curriculum That Is Individualized, Functional and Future-Oriented.

Simply stated, students have the right to an education that leads somewhere. Valuable time in school should not be wasted on what is trivial or simply easy to teach.

Schools should not impose limits on what students with Down syndrome can learn. Students have the right to be exposed to the full range of curriculum and educational opportunities available to their peers without identified handicaps. The presence of Down syndrome does not reflect an absence of capacity to learn academic skills.

Each student's IEP should be truly individualized. The preferences and values of individuals with Down syndrome and their parents should be respected in the goal-setting process.

Schools must adopt a future orientation that defines success with reference to students' lifestyles after leaving school.

School curriculum should be directly linked to the achievement of post-school outcomes of work and integrated community life.

All students should have work training opportunities in the community. No student should be presumed to be too disabled to be prepared for meaningful and integrated employment.

4. Students Have The Right To Be Treated With Dignity As Full Citizens Of Their School Communities.

There should be a general absence of labeling. All students--including those with disabilities--are people first.

Schools should actively promote respect for human diversity.

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Students with Down syndrome should have the same access to the same events, facilities and resources as do students without handicaps.

Participation in normal school and community events is a right, not a privilege for which students have to qualify.

Students with disabilities must be recognized as individuals. Variation in behavior, affect and health are part of the human condition and not specific to Down syndrome.

5. Students And Their Families Have The Right To Transition Support And Planning Throughout The School Years.

Schools should promote active parent and family involvement in decision-making. It is the family, not the educational system, that has the most long-standing and vested interest in a child with a disability.

The agenda of the National Down Syndrome Congress reflects a commitment to the rights of students and to the implementation of quality educational services.

Education is only one of many systems that support individuals with Down syndrome. In order to realize fully the effects of educational excellence, the NDSC promotes integration and best practice standards for programs that provide work, living and recreational opportunities for people with disabilities.

Approved by the National Down Syndrome Congress Board of Directors November 18, 1988. Statement must be used in total and credit should be given to the NDSC in any references.

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Senator SIMON. That is a great story.

Ms. CRUTCHER. Thank you, Senator.

Senator SIMON. Thank you very, very much. First, Ms. Dodd, you mentioned something that comes up frequently, and Ms. Crutcher, you mentioned it also. And that is the relationship to economic status and ability in order to get what you are entitled to in Public Law 94-142. Do you have any suggestions as to how we can make sure that opportunity is there, not just for those who are children of Marion Dodd and Diane Crutcher or William Peters and Joan Kuhn, but for all children?

Ms. DODD. I really do think Part D moneys for personnel development advocacy groups and teacher administrators in-service should be expanded, Senator.

Senator SIMON. But my impression is, maybe I am wrong here and you correct me, that even the advocacy groups tend to concentrate in the more affluent areas. Am I wrong?

Ms. DODD. No, you are not wrong because certainly more affluent people have mothers who have time to belong to parent groups and to provide advocacy. In Northern Illinois they actually provide in-service for teachers and administrators, where working people cannot belong to parent groups and run conferences and that sort of thing. So it is up to school districts or some other agency affiliated with the schools to do more in-service. I think I refer to an ISBE study in my testimony that says when they were surveying co-ops, joint agreements, and school districts for Federal grant applications on the use of those funds, 75 percent of the school districts said they could use more in-service.

Senator SIMON. Do you want to add anything?

Ms. CRUTCHER. Yes, please, sir. I think we could certainly enhance the amount of parent to parent advocacy and interaction that we have. We have an 800 number that is for the State of Illinois only, that rings into our Chicago office. The bulk of the time is spent on 1 to 1 assistance in people's particular efforts in trying to get their child into whatever program it is that they would like to access. So there is an awful lot of learning yet to be done on how to become good partners, how to be knowledgeable, how to create services where there are none.

But it also seems to me that the exact same amount of effort has to be put forth on the side of the school system. We need to have school systems that will support the intent and purpose of Public Law 94-142, which indeed talks about the least restrictive environment, and starting out at the top of the pyramid, not at the center, because the center is where we have available resources and services in this community or because your child has Down Syndrome, therefore, they must be trainable, mentally retarded, and they must go to a segregated facility.

We have got to rid ourselves of those kinds of delusions and move into the attitude of opportunity first. If the school districts would do that, the parents then, regardless of socioeconomic status, time, ability to learn, could go directly into the school and access what they have a right to.

Senator SIMON. Ms. Dodd, your comments are about learning disabilities. And it is difficult to overstress the importance of dealing with this. I am working right now on the problems of illiteracy. I just held a hearing, and I found the majority of those people who were illiterate and who now can read and write, are people who had learning disabilities and who went through the school system and no one found the problem. Gloria Wattles, from the little rural community of Louisville, IL, was just put in the back of the room and she just existed in school. Dexter Manley, some of you may know, because he is an all-pro lineman for the Washington Redskins, his story made news. He went through grade school, high school, four years at Oklahoma State University, and no one tested him for having a learning disability. He finally found that he could not read and write. Here is a man making $600,000 a year. He finally went to a Washington school and they tested him. He read at the second grade level. It turns out he has a learning disability and he now reads at the ninth grade level. He is also studying Japanese. His is one of the happy stories.

One of the other things you mentioned that I cannot stress more strongly that is needed is for parents to stand up, to advocate. Whatever we have been able to get done at the Federal level is because there are people back home who are willing to stand up. I can remember particularly mentioning the Down Syndrome problem when I was in the State Legislature when the Lincoln School up here, just up the road, was a place of horror because most people they just put their children in and just forgot them.

One other thing you mentioned that is true for all of us, and we do this in Government worse than anybody, and that is you say school communications are often written in hard to understand language and contain acronyms unfamiliar to parents. We do this all the time. You know, even with something like Public Law 94-142, my guess is some of the reporters here do not understand some of the things we are talking about here, simply because we are always using these acronyms.

Mr. Peters and Ms. Kuhn, you two represent a dilemma that we face here. Brian has done very well thanks to your help and thanks to the help of others. I want to not only commend you, but you say in Brian's freshman year at Sycamore High School, 52 of his classmates gave up a study hall to take sign language classes being offered by the interpreter. I would like to commend those 52 classmates also. I think that is a marvelous thing.

Do the two of you agree that whether students go to Jacksonville or stay at home in Sycamore that that is a decision ultimately the parents should make, or do you not agree on that? Mr. Peters.

Mr. PETERS. I do not agree with that totally and what we see happening a lot is that parents for noneducational reasons will feel that a placement in a residential facility is in the best interests of their children. My feeling is that in terms of the educational program recommendation the team of people including the parent, as a participant, need to come to the educational decision. Obviously, if the child cannot be cared for in the home then you run into a situation of needing residential care. But the educational programming, I feel should be local, unless the local district is unable to provide for the educational needs of the child.

Senator SIMON. Ms. Kuhn, you differ I gather?

Ms. KUHN. Not totally. I think that parents should be made aware of what ISD can offer, that they should not think of it as an institution. When we first came over to ISD, I expected to see army barracks. I really thought that it would be the first thing that I ever saw. And we were just amazed. It is a wonderful school. And also I think that if parents were made aware, then also it should be their decision if they decide that they want to go to ISD. It should not be the government saying, you belong in your home district. It should be the parents' decision.

Also, I would like to say that the boys have been going to school at ISD for six years. We drive 150 miles round trip to bring them home every weekend and take them back on Monday morning. So they have the best of both worlds as far as I am concerned. They have a wonderful school. They have a home life. So it is not like we took them over there and we dumped them.

Senator SIMON. Let me ask you this. We have, for example, in the State of Illinois down at Marion, a public school with some rooms for the severely hearing impaired. And they come from about 50 to 75 miles around to that room. Is that a desirable thing; is that the direction we ought to be going? If I can ask both of you.

Mr. PETERS. I think the further you remove the child geographically the more there are problems. What you are talking about is clustered programming and it is not only done with the hearing impaired, but it is done with mentally handicapped students, blind students, etc. There is a tendency with clustered programs where children have to travel for some negative things to happen. Typically they do not receive a full five hours of instruction because they are on the road to and from while other kids are beginning school. Typically they cannot participate in extra curricular activities because of the fact, again, they are on the road when football practice is starting.

So I think the ideal always, the least restrictive option for the child, is the school that the child would attend if they were not handicapped. And we found that with students with hearing impairments in our county, even in one-on-one programs where that child is the only hearing impaired student in the school, we have been able to provide appropriate educational services on that kind of a basis.

The old concept that you need a homogeneous class of 30 kids that are all the same, research just is not supporting any more. Heterogeneous grouping is indeed often beneficial, more beneficial than homogeneous grouping. We have not mentioned the effect that Brian attending school locally has had on his classmates who are not disabled. That is missing with the clustered kids. It may happen in the town of Marion or wherever they are clustered, but what about all the communities that those kids are coming from who now do not experience people with disabilities.

Senator SIMON. You can understand the dilemma I face as a law maker. I have visited the Jacksonville School on two or three occasions. I talked to parents who really feel that is the right answer. I talked to others who feel as you do. And I guess the law cannot mandate one or the other. We have to leave it to parents, to school boards, to others, and to States, to work this out.

Let me ask both of you this. You mentioned Brian is accepted in Northern Illinois University and the University of Illinois. You purposely did not go to Gallaudet University for the same reasons, I assume.

Mr. **Peters**. We did not not include Gallaudet in the choices. Brian has been to Gallaudet, visited Gallaudet and the Model Secondary School for the Deaf when he was entering high school. So he has seen that option. He has been to Jacksonville and saw that option in high school. We have always tried to give Brian as much information as possible. He is an extremely bright boy and is able to make pretty sound decisions, we have found through the years. So we trust his judgment as well as our own. He looked at Gallaudet but felt that was not the kind of experience that he wanted.

Senator **Simon**. And for those 13 year olds, and I know 13 years old seems a long way to college, but it is going to be here soon. Let me give you my sympathy in advance to have three in college at the same time. But have they talked about it at the age of 13, where they would want to go to college?

Ms. **Kuhn**. No. We want them to go to college and we want them to see Gallaudet and see what it has to offer. But at this point we have not gotten to that yet.

Senator **Simon**. All right. Ms. Crutcher, first I like your story about Mindy going to the top of the hill. And that is what it is all about. To make sure that that the Mindy's of the world can get to the top of the hill. What, if I may get away from the topic of this immediate hearing, what about Mindy's future, once she is no longer in school? What should we be doing to give Mindy an opportunity to participate meaningfully?

Ms. **Crutcher**. Sir, one of the things that we have been trying to do for many years is to not look at cute and cuddly and say it will last forever. So a long time ago we began looking at Mindy as a future person rather than the person she was at that time. So not only did we work with her educational programs to make them the best that they could be at any point, but we also ourselves have been active both statewide and locally to try to create appropriate services, to try to create nurture, to assist with appropriate living facilities. So that a Mindy who has been kept home all of her life will not be number 400 in line behind the institutionalized population, for instance. We want to make sure that the placements that she has an opportunity to live in as an adult are as open as the educational opportunities that we sought for her as a child, and now as an adolescent.

All of those things require again, our time, our creativity, our partnering with people, which means a good deal of knowledge base, and we get back again to the same kinds of problems that we see with the least restrictive environment and education. And that is least restrictive environment opportunities for adults. Without a doubt, we will find a place for her to work, sir. We will find a place for her to be competitively employed because that is the way that we have raised her, to be a competitive and fully functioning tax paying adult.

Never have I been so proud of the fact that she will be a taxpayer and I am certain that she shall. But it will require us, without a doubt, to push it.

Senator SIMON. I am frankly not worried about Mindy. I think Mindy is going to do well. I am worried about all the other Mindy's.

Ms. CRUTCHER. Yes, sir. And that is my professional job. The professional side of me can say to you that we have got 500 parent groups around the country. Again, they are centered in those more densely populated parts of the country. But in Illinois we have 18. So indeed we do have some in downstate Illinois. And all of those groups are doing the kinds of things that we do in Bloomington-Normal within our local parent group and with members like me.

So we are trying to instill in families the idea that they must be educating their children to go some place, and that indeed at 21 they will graduate. They have got to have many, many plans already enforced. I sit on the Governor's Council for DORS and one of the reasons that I am on that Governor's Council for the State of Illinois is to be looking toward the employability of persons with mild and moderate mental retardation. So that all of this excellent education we are giving them will pay off.

Senator SIMON. Let me just add for anyone who one way or another is going to be hearing my voice. Employing people with disabilities can be a great plus. As Judy Wagner can tell you, one of the most popular members of our staff is someone who is deaf. But we have to create opportunities and not let people just feel unneeded, and have them be assets to society rather than a liability. One of the pieces of legislation that I have introduced that is not going to pass this year, or next year, but one of these years I hope we will have the wisdom to pass, says anyone who is out of work five weeks or longer, who cannot find a job anywhere else, that local committees of 13 people would find opportunities for them. They could work four days a week at the minimum wage. That is not a lot of money, but it is a big improvement over sitting doing nothing, an improvement both for them and for our society.

Let me thank all four of you very, very much for being here and for adding to this discussion today. Thank you.

Our final panel is made up of Sharon Soltman of Designs for Change from Chicago; Charlotte Des Jardins, Coordinating Council for Handicapped Children of Chicago, and Hiram Zayas, Rehabilitation Consulting, Inc., in Chicago.

STATEMENT OF HIRAM ZAYAS, REHABILITATION CONSULTING, INC., CHICAGO, IL

Mr. ZAYAS. I want to thank you for this opportunity. I would like to just give you, Senator, some of my background so you know where I am coming from.

I am obviously a consumer, and was brought up through the Spaulding educational system in the era when segregation was in. However, while growing up I did manage to mainstream myself in that I grew up in the Chicago Boy's Club. I experienced mainstreaming from four or five years old, all the way through high school, eventually working as a staff person at the Club, where I supervised children from the age of 16 to 20 to get the money to pay my own college, because the Department of Rehabilitation at that time was giving us as consumers a more difficult time to get that sponsorship.

I am also a former parent of a child with a disability. My child passed away two years ago with a severe birth defect. So along with being a consumer, I experienced the wonderful and painful work of going through a crisis such as that.

Third, I am a Master's Degree holder in the field of rehabilitation administration. Why the Good Lord saw to put me in those three categories I will never know, but I come with a unique perspective on this whole area of Public Law 94-142. Also the fact that I was born in Puerto Rico gives me a bicultural awareness of what the issues are. And I am here specifically to represent Spanish speaking, who 9 out of 10 times do not get the opportunity to participate at this level of hearing.

To start off with I want to bring your attention to some of the crisis situations that we find ourselves in within the City of Chicago. Statewide we currently have approximately 60,000 limited English proficient students. The current Hispanic numbers within the Chicago schools approximates about 25 percent. However, when we look at the numbers of personnel who are serving those students, we find that currently we have only 46 out of 3,500 special education teachers who are Hispanic, and it is not known even if those 46 are bilingual Hispanics or if they are bilingual Hispanics working within bilingual special education.

At the same time we also have 27 out of 807 guidance counselors and 16 out of 174 school psychologists. So we can see right from the beginning that students who are limited English proficient Spanish speaking are not receiving appropriate educational services. In fact, the Chicago public schools have not lived up to the time frames of the legislation and have not pushed even to identify Hispanic learning disabled students in the City of Chicago. We are only currently talking about those who have had the strength to register themselves. An extensive outreach program to identify Spanish speaking students in the City has not occurred.

I wanted to make one point about this. A lot of people often ask what is the situation that arises when we have Spanish speaking students. I, for one, came up in a monolingual Spanish speaking home, and one of the things that you have to be aware of is that as Hispanics we have a Hispanic world view. Our experience base tells us that whenever we give birth to a disabled child, it is our responsibility to bring up that child and not the responsibility of the State or any outside agency. However, the Anglo world view is that the person with the disability should become an independent, self fulfilling individual. So a child who is Spanish speaking and disabled comes up in the family where everything is done for them, and then they are sent to school and told that they should do everything on their own.

So you develop a lot of problems in that child. I, for one, went through that whole dilemma and fortunately I was able to come out the other end. But I know many of my friends who did not have positive experiences. And because of the two worlds bombarding you in that way, and not having the appropriate support systems, by the time you are 18 years old you are dropping out. And because you are dropping out within a Hispanic household, it is the acceptable thing to do. However, when we live here in Chicago or in Illinois, it may not be the most appropriate thing.

So I travel, have trained in Puerto Rico, have done training for individuals from Mexico and rehabilitation in South America, because this is the dilemma that is not addressed in either State or Federal legislation in terms of the bicultural issues that come up.

Now, understanding those issues, I have some specific recommendations that I would like to give OSERS, which is where the dollars start flowing down to the city level.

With respect to the personnel shortages of special education teachers, social workers, psychologists and guidance counselors, I would like to have the next round of Public Law 94-142 include that it be a requirement for higher education institutions benefactors who are receiving Federal funding for special educators and pupil support personnel that they be required to train a certain percentage of Hispanic personnel. Not that it be suggested as only an affirmative action alternative, but that it be a requirement written as a percentage identified by the total Hispanic population for that area.

I suggest that because the universities who have attempted to do affirmative action in their recruitment have not really come down to the grass roots community of the Hispanic communities. They do it through Anglo media and newspapers and things like that. But in terms of coming to a totally Hispanic high school to do their recruitment, it is not done. And one of the issues that I have is that we have Hispanic students who want to enter these fields. However, there is lack of scholarships, there is lack of information about what the job entails once they graduate. They probably have never been exposed to a special education setting. So it is going to require an intensive effort by the Federal Government laying some ground work in terms of what is an appropriate Hispanic outreach program for recruitment of personnel.

We have been talking about this shortage now for approximately eight to 10 years, and I spoke eight or 10 years ago, giving solid recommendations on how we could make up for this shortage of personnel. And it was not adhered to. Here we are again, addressing Public Law 94-142 and we have a more severe shortage. And I am just wondering what is the difficulty of mandating, you know, percentage requirements to fill these gaps. I talk to consumers all the time and we are wondering now, what is the difficulty, because if we can harness our advocacy efforts in a different direction it will become more positive. But currently, and for the past 8 years, we have seen no progress in this area at all. In fact, the shortages have become more severe.

Senator SIMON. If you can summarize the balance of your statement.

Mr. ZAYAS. The last part in terms of shortages is we have personnel within the public school system currently who are not being utilized as bilingual personnel. And the Chicago public schools I understand just recently negotiated a settlement with the Federal Government. But I want to make note that very little was spoken to about the area of bilingual special education within those negotiated settlements.

What I would like to see OERS do is to hold a hearing such as you are holding today in predominantly Hispanic communities. I would like you, Senator, to come to Chicago. I would be more than glad to negotiate a meeting place and get Hispanic parents to come out, and translation services as well, so that they have the same opportunities when Public Law 94-142 comes up and then we can make the constructive changes that we need. Thank you very much.

Senator SIMON. Thank you very much.

Sharon Soltman.

STATEMENT OF SHARON SOLTMAN, AN ATTORNEY FOR DESIGNS FOR CHANGE (DFC), CHICAGO, IL

Ms. SOLTMAN. As other panels have done, I would like to thank you, Senator Simon, for the opportunity to speak with you today. I would also like to thank you for the leadership role that you have played in supporting the protections that are afforded to handicapped children in this country.

Like other panelists I have more than five minutes worth of things to say. So I am willing to skip around through my testimony. But before I begin, I want to bring you up to date on what has been happening in Chicago, the thing that Hiram just referred to, and that is the settlement between the Office for Civil Rights (OCR) and the Chicago School Board regarding a complaint that dealt with delays in evaluation and placement of handicapped children in Chicago public schools.

While the problems are very severe, it is I think a time for hope in Chicago, because this is quite an extraordinary agreement. I would like to read to you a couple of short paragraphs from James Compton, the President of the School Board, that he said last Friday when the settlement was announced:

> "This settlement brings to an end what can only be described as the shameful and disgraceful mistreatment of those children who are most vulnerable and in need of special care. We deeply and sincerely apologize to you (handicapped children and their parents) for having to suffer the wrongs and mistreatment you were made to endure. Any school system that tolerates the neglect of those children most in need of love and special care, for whatever reasons, is a school system that has lost its sense of mission and compassion. Speaking personally and for the entire Board, we share your love and devotion for these children and we will never allow them to be neglected and mistreated ever again. This we promise you."

Those are fairly extraordinary words from a School Board member in the City of Chicago.

I have four things I want to talk to you about today. The first two I am going to do very quickly.

Public Law 94-142 has made the difference for millions of handicapped children in this country, and today I think there is access. Please do not weaken any of the protections that are afforded these children and their parents.

The second topic has to do with parent training. Again, that has been referred to, the critical role that parents are to play. I would make two recommendations. First, that the funding for parent training be increased. There is a specific proposal that I know has been before the subcommittee before. We support that proposal. Second, I believe that the mandate for parent training should include training parents to deal with systemic problems because if those systemic problems are dealt with, they will have an impact on many children and you could spend as much time on one problem as a systemic problem.

The third thing that I want to talk to you about in a little more detail, Hiram has already touched on, and that is the special problems that affect minority handicapped children. Unlike whatever advocacy groups you may have been referring to before, Designs for Change is primarily focused on helping and assisting parents of handicapped children in communities where there are many poor children and many minority children. I will give you a couple of examples of the problems that are faced by minority problem children, special problems, by citing a couple of examples in Illinois.

Black children in general have been misclassified too often as handicapped when they are not, and they are also classified as having one handicap condition when they have a different handicap condition. For example, in Chicago there was a retesting program of all the students who were labeled EMH, Educable Mentally Handicapped, because there was a disproportionate number of Black students in those classes. Some 2,300 students were transferred out of that handicapping category because they were not EMH to begin with. And while that is a step in the right direction, there are scars on many of those children which they will have to live with for their entire life. And we find a new phenomenon happening and that is that EMH was a restrictive classification in Chicago to a self contained classroom. We find today that restrictive setting is there again, there are a disproportionate number of Black children who are in restrictive settings.

So we may just be calling things by a different label. We are not quite sure.

Hiram has talked about the problems that Hispanic handicapped students face. There are fewer students, 8 percent served in Chicago schools compared to 11 percent of the general population. Again, in my testimony I have details of what that has meant to individual programs.

The third problem, parents' rights are often ignored. There is a socioeconomic question as to how much information people get from the school system. When the parent is a minority, advocates more often report incidences of abuse.

The fourth problem is that of delays in evaluation and placement. I know that you are aware of some of those problems. In Chicago, at this moment, there are 6,000 children who await evaluation or re-evaluation as required every three years. The OCR's proceeding, in which Designs for Change was an *amicus curiae*, showed a year and a half ago, 2,000 children had waited almost two years to have an evaluation or re-evaluation and many thousands of others had waited well beyond the 60-day limit.

The settlement that we have in Chicago is quite extraordinary and comprehensive. It adds many more resources, it has a major recruitment component. It revamps the organizational structure, it deploys resources to local schools, which have been central, and it commits funds finally to support the program. There are many reasons why this agreement was reached at this time, among them the appointment of a school board member who is the parent of a handicapped child who knows the Chicago system well, and has worked with parents. But there is a Federal component to why this, I think, all happened. I have two parts to that.

First, it has been OCR's persistence in pursuing this case, not settling for the many negotiated plans that came from Chicago that lacked substance, that lacked financial backing and were just empty. The second is the Federal magnet schools legislation, which for the first time this year required that OCR give a stamp of approval that the local district would not discriminate on the basis of a handicap. And again, sex discrimination and handicapped discrimination were added only this year.

And with the finding from an Administrative Law Judge in the OCR's proceeding, OCR could hardly give a stamp of approval to the Chicago application. That, with having knowledge from school board members last week and press statements, had a major influence in their hastening to settle at this time. It is interesting because the money in jeopardy with the magnet schools is $4 million. That is two-tenths of 1 percent of a $2 billion budget that Chicago has. And yet that seemed to have more influence on pushing for a settlement than the potential threatened loss of about $120 million in Federal funds at some indefinite day after all the legal "rigamarole" is over. And I think it has just been incredibly effective.

I would like to leave you with four recommendations.

Number one, the primary rule of the Office for Civil Rights and the Office for Special Education Program should be to monitor and enforce Federal laws. There are too few proceedings like those that took place in Chicago which are vigorously pursued.

Second, the language of the Magnet Schools Assistance Act ought to be a model for inclusion as part of the eligibility requirements for other Federal moneys that flow to schools, for example, vocational educational funds, and Chapter 1 compensatory education funds.

Third, the funding for parent training and information projects under Public Law 94-142 should increase and include a specific mandate for training parents to solve systemic problems.

Fourth, now that Chicago's Board of Education has decided to bite the bullet, acknowledge their problems and take some action, the Federal Government ought to provide whatever is necessary to assist Chicago in meeting its goals. That assistance may come in the form of technical assistance or financial assistance.

Thank you for this opportunity.

Senator SIMON. And thank you.

[The prepared statement of Ms. Soltman (with attachments) follows:]

PREPARED STATEMENT OF SHARON WEITZMAN SOLTMAN

Good morning Senator Simon. My name is Sharon Weitzman Soltman. I am an attorney for Designs for Change (DFC), a non-profit children's research and advocacy group based in Chicago.

Designs for Change has been active for the past 12 years in the effort to secure what both federal and state law clearly require for handicapped children: a free appropriate public education. In pursuing this goal, DFC has assisted thousands of parents of handicapped children throughout Illinois on a one-to-one basis, and provided intensive, long-term training to parent groups concerned about the education of handicapped children. DFC's parent training and assistance efforts have been largely made possible through support of the federal Parent Training and Information Program established pursuant to 34 C.F.R. sec. 631.

DFC has also pressed local school boards and the Illinois State Board of Education (ISBE) to improve their policies and practices in special education. At this time DFC is an amicus curiae in an administrative proceeding brought by the Office for Civil Rights of the Department of Education concerned with severe delays in the evaluation and placement of handicapped children in the Chicago Public Schools. DFC's legal and policy work in special education is funded exclusively through private foundation grants.

Senator Simon, I want to thank you for your continuing leadership in protecting the educational rights of handicapped children, perhaps the most vulnerable population in our nation's elementary and secondary schools.

As you know, I come to this Subcommittee hearing at an historic time for special education in Chicago Public Schools. Your role in facilitating CPS's extension of the Magnet Schools Assistance application deadline is a crucial reason why those of us who work with handicapped children and their parents in Chicago hold high hopes for the future. To give you a feeling for what's happening, I'd like to begin by reading a few paragraphs from a statement made last Friday by James Compton, the President of the Chicago Board of Education, regarding the settlement of the Office for Civil Rights case mentioned above:

> "This settlement brings to an end what can only be described as the shameful and disgraceful mistreatment of those children who are most vulnerable and in need of special care....
>
> "We deeply and sincerely apologize to you (handicapped children and their parents) for having to suffer the wrongs and mistreatment you were made to endure.
>
> "Any school system that tolerates the neglect of those children most in need of love and special care, for whatever reason, is a school system that has lost its sense of mission and compassion.
>
> "Speaking personally and speaking for the entire Board, we share your love and devotion for these children and we will never allow them to be neglected or mistreated ever again. This, we promise you."

I want to speak with you today about four topics related to P.L. 94-142, the Education of the Handicapped Act and the federal role in the education of handicapped children:

- First, on a national basis and in Illinois, P.L. 94-142 has been the critical factor in ensuring that millions of handicapped children are provided with an education. Yet, the law has not been fully implemented and there must remain a strong federal role in legistation and regulation if the law's goals are to be fully realized.

- Second, P.L. 94-142 incorporates a strong role for parents of handicapped children in determining what educational program is appropriate for their child. On a national basis, Parent Training and Information Projects often play a crucial role is helping parents to participate who would not otherwise become involved. However, such projects are currently unable to adequately assist all parents who need help. We support increased funding, and expansion of the mandate of parent projects to include assisting parents to solve systemic problems.

- Third, despite the successes in the implementation of P.L. 94-142, thousands of handicapped children remain unserved or underserved or misplaced in inappropriate settings. These problems have a disproportionate impact on low-income and minority students. I will use Chicago and other cities in the state which have a sizable minority population to illustrate the extent of some of these problems.

- Fourth, the federal administrative agencies who are charged with the implementation of laws affecting handicapped children can and should play a critical role in pressing local districts and states to provide appropriate services to handicapped children. For example, in DFC's experience the Office for Civil Rights (OCR), particularly the Region V office located in Chicago, has accepted difficult challenges in carrying out its role.

P.L. 94-142's Critical Role Studies in the late sixties and early seventies by groups such the Children's Defense Fund documented that thousands of children were barred from entering the schoolhouse door. Many of those children were handicapped. P.L. 94-142, Section 504 of the Rehabilitation Act, and related state laws have been the major factor which ensured that almost all handicapped children now have access to school. However the intent of P.L. 94-142 has not been fully realized and in enacting or reauthorizing legislation it is critical to keep in mind that we have a long way to go before the reforms of P.L. 94-142 are institutionalized. Therefore there must be no weakening of the protections afforded parents and their handicapped children in P.L. 94-142. At the same time, we urge that, without weakening protections, local districts be allowed some flexibility to experiment with alternative settings for educating handicapped students, and alternative use of personnel to attack such national problems as inappropriate identification of handicapped students.

Parent Training and Information Programs It is no mistake that P.L. 94-142's framers carved out a critical role for parents of handicapped children. These parents have important knowledge about their children's strenths and weaknesses -- after all, these parents were their children's first teachers. The law does not prescribe an educational program that is to fit for each handicapped child; rather, it trusts a process to arrive at an individual decision for each child. And this law puts parents right in the center of the process - through mandated notices, consents, and participation.

But some parents are not prepared for the role defined in the law. They are sometimes unaware of their rights and not informed of them by their school district. Sometimes they have difficulty questioning a decision of a school official. Some parents feel isolated and are unaware that other parents are facing similar problems in trying to get appropriate services for their handicapped child in a particular school system. They may have difficulty because their primary language is not English and the school does not communicate in a familiar language. Sometimes they are even misinformed as to what services their child is receiving. We find that often school officials are simply not carrying out the law with respect parents -- for example, the Illinois State Department of Education has cited Chicago year after year for its failure to document legally mandated consents and notices to parents.

At this time, the federal Parent Training and Information program is funding 44 centers. However, there are no federally funded parent information center in 8 states. In addition, there is no center in Washington D.C. or the Virgin Islands. And while the centers that are funded are providing assistance to many, many parents, many others are still not receiving the help they need. Some states, because of geography (e.g. California and Pennsylvania) or size (e.g. California and New York), need more than one parent project.

The current funding of such parent programs is about $7,000,000. We support a proposal, which you have heard about from others testifying on this issue, which would increase that funding to $13,000,000 to support 59 parent programs (at an annual level of $200,000 a year) and to support the technical assistance projects for current parent programs.

Problems barring one handicapped child from getting an appropriate education often affect other handicapped children in a particular school system as well. In DFC's experience, solving such "systemic" problems can have a positive impact on more than just one child. Therefore, we support a legislative expansion of the mandate of parent projects to include training parents and parent groups to solve systemic problems -- problems affecting large numbers of handicapped students. Such an approach holds more potential for positive impact for federal P.L. 94-142 training dollars.

Special Problems of Minority Students DFC's focus in its assistance efforts has been in communities where there is a sizable minority population. I will highlight a few of the severe problems in the implementation of P.L. 94-142 that handicapped students and their parents must confront to illustrate how those problems have been manifest in Illinois:

- Black student are sometimes misclassified as handicapped when they are not. Or these students are misclassified because of an inappropriate diagnosis (e.g. a child is classified as Educable Mentally Handicapped (EMH) when the child has a Learning Disability (LD)). For example, in Springfield, Illinois 3 of 10 black children are labeled as handicapped; nationally, about 1 in 10 children are handicapped. For example, Chicago has historically misclassified large numbers of Black students as EMH, a classification that in Chicago has meant being in a self-contained classroom for the entire educational program. A retesting of Chicago's EMH students in recent years has resulted in the reclassification of about 2300 students who were not EMH in the first place; of course, many of these students had spent years in an inappropriate educational setting and have scars which will last a lifetime. Today, we find that while there has been a general shift of students out of EMH classes, there is still disproportionate placement of Black students in restrictive settings, even though the labels have changed.

- Hispanic students in Illinois are severely underidentified, underserved, and inappropriately served. For example, in Chicago, fewer than 8% of Hispanic students are being provided with special education, while other students receive such services at about an 11% rate. For example, in response to a complaint filed by DFC, the Illinois State Board of Education made the following conclusions about the bilingual learning disabled program at the Pope School in Chicago:

> - Four of five staff members involved in the program were legally unqualified, including one teacher who did not even hold a bachelor's degree (one finding involved the observation of an unqualified teacher aide who misspelled 12 of 20 Spanish words on the board during a spelling lesson).
>
> -Legally required evaluations of students were faulty in many cases, and reevaluations of students in these classes were long past legal deadines.
>
> -The individual learning programs that had been planned for these students were often not being carried out, and students were not making academic progress.

- Parents rights are often ignored by the school district, as noted above. We find that all too often, school officials disregard parent rights and dismiss parent views. Time after time, we find advocates who report that school officials completely ignored parents, particularly minority parents, until the advocate stepped in.

- The intent of P.L. 94-142 is to evaluate handicapped students as quickly as possible and to provide the services that are necessary for those students to succeed up to their potential in school. In carrying out that law, Illinois has enacted legislation mandating that the evaluation and staffing (conference to determine if the child is in need of special services) take place within 60 days after "referral" of the child. Illinois law also requires that local districts provide services determined necessary at the staffing "as soon as possible" but no later than the start of the next semester. At this time, more than 6000 students in Chicago await initial evaluation or reevaluation (required by federal law every three (3) years). In the proceeding initiated by the OCR referred to above, evidence at hearing a year and a half ago indicated that more than 2000 students had waited nearly two school years for evaluations or reevaluations, and that thousands of others had waited well beyond the Illinois limit of 60 days.

Strong Federal Role As mentioned earlier, last Friday, on July

21, 1989, the Office for Civil Rights and the Chicago Board of Education announced an extraordinary settlement of the Administrative Proceeding in the United States Department of Education, In the Matter of Chicago Board of Education, Docket No. 87-504-2. The settlement agreement (see Attachment A) is a comprehensive plan that adds necessary resources, revamps the organizational structure of the special education service delivery system to avoid problems in the future, redeploys as many resources as possible to the local schools and commits funds to support the plan. For example, some key terms of the agreement include:

- Chicago Public Schools will add new social workers (over 100 new positions), new psychologists (about 50 new positions), and counselors to create stable school based assessment and support service teams.
- CPS will add 100 new teaching positions and 100 new teacher aide positions to accomodate students in need of services.
- CPS will provide administrative support to local school teams.
- CPS will eliminate its backlog in evaluation and placement by the beginning of the 1990-91 school year.
- CPS will streamline its non-school based staff and perform only those coordinative, support, and monitoring functions which can be best done centrally.
- For the first time, the administrator who is responsible for the implementation of services for handicapped children is directly responsible to the General Superintendent of Schools.
- For the first time, Chicago will allocate time and staff to monitor its own implementation of the law and attempt to immediately correct those problems that are identified.

Of course, the effective implementation of this plan is not guaranteed, and many changes must take place in Chicago if the promise of the Plan is to be realized. But if the plan is carried out well, it holds the potential for solving not only the evaluation and placement delay problems which gave rise to the OCR proceeding, but also a host of other major problems that impede effective service delivery to handicapped children in Chicago. It is a time for hope, and those of us who will closely monitor Chicago's implementation of this Plan are more optimistic than we have been for sometime.

The OCR case stemmed from a compliance review conducted in 1984 and 1985. In early 1986, after informal notification to Chicago, OCR issued a formal Letter of Findings stating that CPS was violating federal law by unreasonably delaying the evaluation and placement of handicapped children. In March of 1987, after a year of unsuccessful negotiations, OCR issued a Notice of Opportunity for Hearing to CPS, which threatened the withdrawal of all federal funds if CPS did not correct the identified problems. That spring, Designs for Change entered the proceeding as an amicus curiae. In November and December 1987, an administrative law judge conducted a two week hearing on the issue of whether Chicago had violated federal law. Judge Reis issued a lenghy opinion in August 1988, finding that Chicago had been "woefully neglectful" in fulfilling its obligations to handicapped children, finding that Chicago "devoted neither sufficient energy, interest, nor funds to evaluating handicapped children, despite considerable prodding over the years", and finding that Chicago was in violation of federal law.

A number of factors made the OCR agreement possible at this time, when this case has dragged on for years -- important among them, the enactment of the Chicago School Reform legislation which (1) resulted in appointment of a new school board, one of whose members is the parent of a handicapped child and familiar through her parent training and assistance efforts over the past decade with special education in CPS, (2) has the goal of moving as many resources as possible into local schools, and (3) caused the new school board to reanalyze the relationship of the services to handicapped children to the new restructuring of the schools and to reanalyze the budget for handicapped services.

But two other "federal" factors were also very important, in addition to your role, Senator Simon. First, OCR's persistance over the years of this case has been crucial -- documentation at the hearing indicated that extensive negotiations took place over a period of years. OCR must be applauded for not settling for plans which simply did not make sense, or which lacked credibility due to a failure to be specific and a failure to make a funding committment. OCR's ability to make to assess previous proposals is due to the familiarity of local OCR staff with CPS.

Second, changes in the federal Magnet Schools Assistance program which applied for the first time to the FY 90 applications also played a critical role. According to Title III of Public Law 100-297, the Department of Education cannot approve a local district's Magnet Schools Assistance application unless the Office for Civil Rights determines that the local district will not discriminate against handicapped students. With the August 1988 finding against Chicago, OCR could not give it's approval to Chicago's March 1989 application. The knowledge that the unsettled OCR case would disqualify Chicago from receipt of over $4 million in federal funds apparently hastened action by the new school board's settle the case (see Attachment B).

Requirements such as those in the Magnet Schools legislation also eliminated CPS from the federal Department of Education's Secondary School Recognition Program.

It is interesting to note that the immediate loss of a moderate amount of money ($4 million in Chicago's $2 billion dollar budget is only .2%) seemed in Chicago to create a greater impetus to settle the OCR matter than the potential loss of all federal dollars (about $120 million) at some indefinite date in the future after legal options have been exhausted. We believe that the kind of stipulation in the Magnet Schools legislation is so effective a motivation to solve problems that it ought to be part of the process in any application for federal assistance to local districts. After all, handicapped students participate, or should be allowed to participate, in all programs in public schools.

Recommendations We make the following recommendations for action at the national level:

- The primary role for the Office for Civil Rights and the Office for Special Education Programs should be to vigorously monitor and enforce federal laws affecting handicapped children at both the state and local district levels. Too few cases like the one pursued by OCR in Chicago are pursued vigorously in this country, despite major violations reported across the nation.

- The language of the Magnet Schools Assistance Act ought to be a model for inclusion as part of the eligibility requirements for other federal assistance to local districts -- for example, a part of the eligibility for receipt of Vocational Education funds, and Chapter 1, Compensatory Education funds.

- The funding of Parent Training and Information Projects ought to increase to $13 million, and the projects ought to have the specific mandate to train parents to solve systemic problems.

- Now that Chicago's Board of Education has taken the significant step of acknowledging its problems in educating handicapped students, and committing itself to solve those problems, the federal government ought to provide whatever help is necessary to see that Chicago reaches its goals. That help might be in the form, for example, of financial assistance or technical assistance.

Attachment A

Board of Education
CITY OF CHICAGO
1819 WEST PERSHING ROAD
CHICAGO, ILLINOIS 60609
TELEPHONE (312) 890-3730
OFFICE OF THE BOARD

MR. JAMES W. COMPTON
PRESIDENT

July 19, 1989

Mr. Kenneth A. Mines
Regional Director
U.S. Department of Education
Office for Civil Rights - Region 5
401 South State Street, Room 700C
Chicago, Illinois 60605

Re: Chicago Board of Education,
Docket No. 87-504-2

Dear Mr. Mines:

Enclosed please find a Resolution, adopted by the Interim Board of Education today, July 19, 1989, approving the Settlement Agreement and the Reorganization Plan.

Also, enclosed is an executed copy of the Settlement Agreement and Reorganization Plan.

Sincerely,

James W. Compton
President

JWC/mam

Enclosures (2)

July 19, 1989

RESOLUTION RE: SETTLEMENT OF OCR LITIGATION CONCERNING SPECIAL EDUCATION

WHEREAS, the Board of Education (Board) has been the subject of administrative proceedings (Docket No. 87-504-2) brought by the U.S. Department of Education Office for Civil Rights (OCR), alleging violations of Section 504 of the Rehabilitation Act of 1973 with respect to timely evaluation and placement of handicapped students; and

WHEREAS, the Interim Board is desirous of resolving this dispute without further litigation in the best interests of the special education students in the school system;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF EDUCATION OF THE CITY OF CHICAGO as follows:

1. The Interim Board adopts and approves the attached Settlement Agreement with OCR and the Reorganization Plan for the Education of Handicapped Children appended thereto in order to end this litigation and to provide improved services for special education students.

2. The President, Chairman of the Budget, Finance and Labor Committee and Chairperson of the Reform Implementation Committee are authorized to sign said Agreement.

3. This Resolution is effective immediately upon its adoption.

OFFICE OF THE SECRETARY
BOARD OF EDUCATION — CITY OF CHICAGO

STATE OF ILLINOIS }
County of Cook } ss.

I, THOMAS J. CORCORAN, Secretary of the Board of Education of the City of Chicago, in the County of Cook and State of Illinois, DO HEREBY CERTIFY that the annexed and foregoing is a true and correct copy of that certain RESOLUTION now on file in my office, entitled "Resolution re: Settlement of OCR Litigation Concerning Special Education"

I DO FURTHER CERTIFY that the said RESOLUTION was presented to and adopted by the Board of Education of the City of Chicago by emergency action on the 19th day of July, A.D. 19 89, and deposited in my office on the 19th day of July, A.D. 19 89.

I DO FURTHER CERTIFY that the vote on the question of the passage of said RESOLUTION by the Board of Education of the City of Chicago was taken by yeas and nays and recorded in the official proceedings of the said Board of Education, and that the result of said vote so taken was as follows, to-wit: Yeas 7, Nays 0.

I DO FURTHER CERTIFY that the original, of which the foregoing is a true copy, is entrusted to my care for safekeeping and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Board of Education of the City of Chicago aforesaid at the City, in the County and State aforesaid, this 19th day of July, 19 89.

[L. S.]

Thomas J Corcoran
Secretary.

ADMINISTRATIVE PROCEEDING

IN THE

UNITED STATES DEPARTMENT OF EDUCATION

In the Matter of	Docket No. 87-504-2
CHICAGO BOARD OF EDUCATION Chicago, Illinois	Compliance Proceeding Under Section 504 of the Rehabilitation Act of 1973, as Amendend, 29 U.S.C. sec. 794
and	
ILLINOIS STATE BOARD OF EDUCATION,	
Respondents	

SETTLEMENT AGREEMENT

WHEREAS, the Office for Civil Rights (OCR), United States Department of Education is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. sec. 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of physical or mental handicap in programs and activities that receive Federal financial assistance;

WHEREAS, the Respondent CHICAGO BOARD OF EDUCATION OF THE CITY OF CHICAGO SCHOOL DISTRICT 299 ("Board") receives Federal financial assistance directly from the U.S. Department of Education or through the ILLINOIS STATE BOARD OF EDUCATION ("ISBE") under one or more acts of Congress administered by the Department of Education, including, the Education for the Handicapped Act, 20 U.S.C. sec. 1401 et seq.; Chapter 1 of the Education Consolidation and Improvement Act of 1981, P.L. 97-35, as amended by P.L. 98-211, 20 U.S.C. sec. 3801 et seq.; P.L. 89-313; Chapter 2 of the Education Consolidation and Improvement Act of 1981, P.L. 97-35, 20 U.S.C. sec. 3811 et seq.; the Vocational Education Act; Federal Impact Aid; and Title IV (B), Bilingual Education;

WHEREAS, OCR alleged in a Notice of Opportunity for Hearing dated March 6, 1987, that the Board has engaged in "discrimination" within the meaning of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. sec. 794 and its implementing regulations ("Act"), by engaging in a pattern and practice of denying a class of qualified handicapped persons evaluations and placements in special education without unreasonable delay and unreasonably delaying the provision of meaningful educational services to such persons;

WHEREAS, after a hearing on the merits of the alleged violations in November and December 1987, Bernard Ries, Administrative Law Judge, issued Part I of his Initial Decision in this matter on August 12, 1988, finding that: the Board has been and is discriminating within the meaning of the Act, by failing to ensure that qualified handicapped persons are evaluated, provided access to meaningful educational services and reevaluated, without unreasonable delay and further finding that the Department of Education should terminate and refuse to grant or continue Federal financial assistance administered by the Department and which is provided either through ISBE or directly to the Board until the Board satisfies the Assistant Secretary of Education for Civil Rights that it has achieved compliance with the Act and that it will comply in the future with the requirements of the Act; and

WHEREAS, the Board and OCR have agreed to enter into this Settlement Agreement to resolve all issues raised by this proceeding.

NOW THEREFORE, the Board hereby makes the following Assurances ("Assurances") to OCR.

1. REORGANIZATION PLAN FOR THE EDUCATION OF HANDICAPPED CHILDREN.

The Board shall, upon execution of this Settlement Agreement by the parties, begin a reorganization of its delivery of services to handicapped children for the 1989-1990 school year (FY 1990). A copy of the reorganization plan ("Plan") is attached as Attachment 1 and incorporated by reference into this Settlement Agreement.

The Plan has the following goals: (1) the appropriate allocation of resources necessary to service handicapped children in the Chicago District 299; (2) the redefinition of roles and responsibilities of personnel responsible for the education of handicapped students, pursuant to the provisions of the Chicago School Reform Act, P.A. 85-1418, as amended; (3) ensuring that all laws governing the education of handicapped children are followed by Chicago District 299; and (4) full utilization of available computer technology for the purpose of increasing efficiency and reducing costs associated with manual processing of records.

As is more fully described in Section 2 below -- Specific Aspects of the Plan -- the Board has allocated, and will continue to allocate sufficient personnel and other resources necessary to accomplish the goals of the Plan.

2. SPECIFIC ASPECTS OF THE PLAN.

A. Reorganization of Department Structure.

The Board has committed to fund the reorganization of services to handicapped children, starting with its budget for FY 1990. Under this Reorganization Plan, services and resources which are currently provided at the central administration level, including personnel currently reporting to the district offices, shall be, to the maximum extent possible, deployed to the local schools. Decisions currently made at the central level shall also, to the maximum extent possible be made at the local schools.

The result will be a reallocation of substantial financial resources and a significant number of special education positions from central and district offices to the local schools. As a result of the reallocation and decentralization under the Plan, there will be an increase of over 350 special education positions over and above current appropriations. In addition to the financial resources and positions which will be reallocated to the local schools, the Board has committed, beginning with the budget for FY 1990 additional financial resources to fully fund the Plan.

The Board will hire additional special education personnel and will spend the financial resources necessary to evaluate students in a timely manner and to provide the related necessary services. Specific numbers and categories of staff which the Board has determined must be hired in order to achieve effective professional to student ratios are set forth in the Plan (Attachment 1 at 10-12). Also set forth in the Plan are the methods which the Board intends to use to continue to provide services to new initial evaluations and reevaluations and to clear up its backlog of evaluations and reevaluations which exceed 60 school days, until additional staff can be hired. (Attachment 1 at 12).

The Department of Special Education and Pupil Personnel Services which is currently responsible for provision of services to handicapped children will be reorganized and renamed the Department of Special Education and Pupil Support Services ("Department"). A diagram of the Department's structure is included as Attachment A to the Plan. (Attachment 1 to this Settlement Agreement). The Department's central office will be responsible for monitoring and ensuring compliance with all state and federal laws, location and allocation of necessary resources for the education of handicapped children, provision of additional resources to local schools upon request and other administrative services necessary for the provision of services.

B. Accountability.

The Department shall be directed by the Associate Superintendent of Special Education and Pupil Support Services ("Associate Superintendent"), reporting directly to the General Superintendent. On or before August 1, 1989, the Board shall appoint an Interim Associate Superintendent. The Interim Associate Superintendent shall have all of the authorities and responsibilities delegated to the Associate Superintendent under this Plan. The General Superintendent shall conduct a national search for a person to fill the position of Associate Superintendent. The Interim Associate Superintendent shall automatically be considered a candidate for the position of Associate Superintendent.

The Associate Superintendent shall oversee and be responsible for implementation of this Plan, and shall be required to submit quarterly reports to the Board setting forth the status of implementation of the Plan. These quarterly reports shall also be filed with OCR and ISBE. (See Attachment 1 at 15).

The Board shall also conduct a review and report of special education services and expenditures and file a copy of the report with the General Assembly and with OCR on or before May 1, 1990.

The Associate Superintendent shall have the authority and the resources to direct local school principals to implement the provisions of the Plan including but not limited to timely identification, evaluation and service to handicapped children, and provision of sufficient classrooms to service the student population.

C. Sections Reporting to Associate Superintendent.

1. Central Services.

To the maximum extent possible, services shall be provided and decisions about services, shall be made in the local schools. (See, Attachment 1 at 1, 10-14). Essential centralized services, however, will be performed by the Central Services Division, reporting directly to the Associate Superintendent.

These centralized services shall include: special projects assigned by the Associate Superintendent regarding direct services to handicapped children; planning and implementing a recruitment campaign to fill new positions for special education providers in the local schools created by this Plan; revision of the Board's Manual for Education of Handicapped Children; streamlining the system of evaluation and reevaluation to insure compliance with state and federal law, recognition of parent and student rights, and proper use of staff time; establishing methods to ensure equal opportunity for handicapped children to attend magnet schools; a study and recommendations to be implemented in FY 1990 for decentralization of special education services; analysis of the whether the Board is receiving maximum reimbursement for special education services; and other services as set forth in the Plan at 3-5. (Attachment 1 at 3-5).

2. Monitoring.

To ensure that Chicago District 299 reaches and remains in compliance with state and federal laws governing education of the handicapped (See, Backlog and Placement below), the Board will establish a Monitoring Division reporting directly to the Associate Superintendent. Included in its duties (set forth in Attachment 1 at 5), is the collection of data regarding timeliness of evaluations, reevaluations and placements; identification and provision of services to handicapped minority students and quality of evaluations. Monitoring of services and recordkeeping will be computerized as soon as possible. It shall be the responsibility of the director of Monitoring and the Associate Superintendent to complete the computerization of this division on or before August 30, 1990.

3. Instructional Experts and Support Service Experts.

These two divisions report directly to the Associate Superintendent. The Instructional Experts division is staffed by teaching experts in all handicapping conditions. (See, Attachment 1 at 7-8). The Support Services Experts division will be staffed by experts in social work, guidance and psychology. (See, Attachment 1 at 7-8). Both divisions will include persons having experience with handicapped students with limited English proficiency. Members of both divisions will annually rotate through the central division office to facilitate the sharing of ideas and perspectives of local providers with the central division office.

Under the Reorganization Plan, the staffing level of Instructional Experts currently providing direct services to handicapped students locally and at the districts will be increased by 100 additional special education classroom-based teachers and the Support Service Experts division will be increased by 108 social workers, 68 psychologists, 73 counselors. Expenditures for contractual outside services in

FY 1990 will be approximately $ 3.7 million. (See, Attachment 1 at 12 and Evaluation and Placement).

4. Coordination and Assistance.

Administrative functions necessary to ensure the efficient allocation of special education services to handicapped students in the local schools will be performed in the division of Coordination and Assistance. This division will also be the information center for parents and students. When the need for services exceeds available resources, Coordination and Assistance will identify appropriate outside resources to serve handicapped students. (See, Attachment 1 at 6-7).

D. **Educational Diagnostic Centers.**

Effective September 1, 1989, the District's three Educational Diagnostic Centers (EDCs) shall be permanently closed. Personnel who were performing evaluations at these centers will be reallocated to the local schools. Students previously assigned for evaluation at an EDC will be evaluated at the local school.

3. **EVALUATION AND PLACEMENT**

As of the date of this Settlement Agreement, the Board can identify a backlog of 4,000 initial evaluations and reevaluations not completed within 60 school days, but the number may be higher.

By the 30th calendar day after the start of the 1989-90 school year, the Board will provide OCR: 1) a list of all students who, as of 7 calendar days prior to the report date, had not been evaluated within 60 school days of referral; 2) a list of all handicapped students who by the same date had not been reevaluated within three years of their last comprehensive case study evaluation; and 3) a list of all handicapped students who were found eligible for special education and/or related aids and services before the start of the 1989-90 school year and were not placed by the date of the report. Students will be listed by identification number, school, date of referral and date of multidisciplinary staff conference (where appropriate). For purposes of these Assurances, these three lists shall comprise the evaluation, reevaluation and placement backlogs ("Backlogs").

The Plan sets forth the financial resources which the Board will commit in FY 1990 and in FY 1991 to eliminate this Backlog and to provide timely evaluations, reevaluations and placements.

By two months after the start of the 1989-90 school year, all of the students in the placement Backlog will be placed.

By the first day of the 1990-91 school year, all of the students in the evaluation and reevaluation Backlogs will be evaluated.

Seventy-five percent (75%) of all students referred for an evaluation or due for a reevaluation from the first day of the 1989-90 school year through August 30, 1990, will be evaluated within 60 school days of referral.

By the first day of the 1990-91 school year, all students who were determined to need special education and/or related services prior to the beginning of the school year will be placed.

By the first day of the 1991-92 school year, no evaluations or reevaluations will have remained incomplete for longer than 60 school days from the date of referral.

Due to a lack of available personnel, at the inception of the Plan, not all services required to eliminate the backlog can be provided in-house and some services will have be obtained by contracting with outside agencies. Once the Department's recruitment efforts have reached the staffing levels identified in the Plan, the remaining backlog will be eliminated using a combination of special education experts employed by the District and outside agencies.

By no later than thirty calendar days after the start of the 1989-90 school year, the Associate Superintendent will begin implementation of procedures to expedite placement of students in appropriate special education classes. The timeliness of placement will be improved through computerization of the placement system. Computerization of this function is not yet fully operational. Once the system is fully computerized, the goal will be to place handicapped children as soon as possible but no later than 30 calendar days of certification. The timetable for completing computerization of placement services is August 30, 1990.

Until the system is computerized, placement will be made as soon as possible, but no later than the beginning of the next school semester after the determination for eligibility for the placement has been made, utilizing the services of the evaluation team at the local school in conjunction with the division of Coordination and Assistance. (See, Attachment 1 at 13-14 for further details about placement).

4. OUTREACH AND TRAINING

The Associate Superintendent and the Department shall be responsible for educating parents and local school councils about the rights of handicapped students and the District's obligation to serve handicapped students. The Associate Superintendent and the Department shall also provide training to all special education personnel concerning their responsibilities under this Plan. A description of the areas of training are set forth in the Plan at 13-14. (Attachment 1 at 13-14).

5. TERM OF THIS AGREEMENT AND REPORTING MECHANISM.

The Board hereby agrees to comply with the terms of this Settlement Agreement and the Plan incorporated by reference as a part of this Agreement, from the date of execution by the parties until one year after OCR has determined that the Board has reduced its backlog of overdue evaluations, reevaluations and placements to as close to zero as is reasonably achievable. The Board shall have the right to request modification of any provision of this Settlement Agreement from OCR, such modification to be granted or denied in the sole discretion of OCR.

During the term of this Agreement, OCR and the ISBE will be provided copies of the Associate Superintendent's quarterly reports submitted to the General Superintendent and the Chicago Board of Education, on the status of the Plan's implementation. The first report is due 90 calendar days after the Associate Superintendent assumes the position. In addition, the Board will provide to OCR the information required in section 3, **EVALUATION AND PLACEMENT**, on the dates specified therein. The Board will provide to OCR any additional information the Office believes is necessary to determine whether the Plan is being implemented.

In light of these Assurances, OCR agrees to file jointly with the Board a stipulated stay of the above captioned administrative proceeding. The stipulated stay will remain in effect until OCR determines: 1) that the Board, consistent with section 3 of this Agreement, has ceased its unreasonable delays in evaluating, reevaluating and placing handicapped students to the maximum extent possible; and 2) for one year thereafter has evaluated, reevaluated and placed handicapped students in a timely manner. Upon such determination, OCR will move for the dismissal of this administrative proceeding. In the event OCR determines that the Board has not implemented these Assurances and has thereby failed to remedy the violation findings issued in this administrative proceeding in the Initial Decision - Part One, dated August 12, 1988, OCR will take further action as authorized by 34 C.F.R. Parts 100, 101 and 104 and the Board shall be entitled to all procedural and substantive rights conferred by law.

Dated: July 19, 1989

U.S. Department of Education
Office of Civil Rights

Kenneth A. Mines
for Dr. William L. Smith
Acting Assistant Secretary
for Civil Rights

Kenneth A. Mines
Kenneth A. Mines
Regional Director
Region V

Chicago Board of Education

James W. Compton
President

William S. Singer
Vice President
Chair, Budget and Finance Committee

Joan Jeter Slay
Joan Jeter Slay
Member
Chair, Reform Implementation Committee

REORGANIZATION PLAN FOR THE EDUCATION OF HANDICAPPED CHILDREN

This Reorganization Plan for the Education of Handicapped Children ("Plan") has the following goals: (1) to appropriately allocate resources necessary to serve handicapped children in Chicago Public School District 299; (2) to redefine roles and responsibilities of personnel responsible for the education of handicapped students pursuant to the Chicago School Reform Act, P.A. 85-1418, as amended and in light of other obligations to handicapped students; (3) to ensure that all laws governing the education of handicapped children are followed by the Chicago Public Schools; and (4) to fully utilize available computer technology for the purpose of increasing efficiency and reducing costs and delay associated with manual processing of records.

ORGANIZATION

Several principles guided the development of the new organization structure diagrammed in Attachment A.

1. Staff responsible for providing education to handicapped students should be deployed to the maximum extent possible to the local schools.

2. Decision-making should, to the maximum extent possible, rest with staff at the local school, and staff at the local schools should be held accountable for all decisions made.

3. All staff not based at the local schools shall be based at the central office. The medical services units now located in the field will be consolidated into three units and will remain in the field at 3 locations -- north, south and central.

4. The functions of personnel based in the Department of Student Support Services at the central office are to ensure that all state and federal laws are followed, to locate and allocate necessary resources for the education of handicapped children, to provide assistance to local schools upon request, and to carry out other administrative functions necessary to the operation of programs for

handicapped children.

5. Staffing positions assigned to the Department should be determined by functions that need to be carried out rather than by the present staffing configuration.

6. To the extent possible consistent with redefined central office responsibilities, the absolute number of staff in the Department is reduced.

7. Clerical staff ought to perform as many tasks as possible in order to allow more time for professional staff to carry out their responsibilities.

8. The Department should establish a set of checks and balances to ensure that staff, local school councils and others from local schools have the resources to provide handicapped children with an appropriate education.

The newly created position of Associate Superintendent for the Department of Special Education and Pupil Support Services, reporting directly to the General Superintendent, will be responsible for the education of all handicapped students, as well as other support services. The Interim Associate Superintendent shall appoint directors for the Department divisions. These divisions provide the resources and assistance necessary to ensure that handicapped students are served and that this Plan is implemented:

1. Central Services

2. Monitoring

3. Instructional Experts

4. Support Service Experts (also provides services to nonhandicapped)

5. Coordination and Assistance

6. Medical Services (also provides services to nonhandicapped)

Attachment A diagrams the relationship between the Associate Superintendent and the various divisions listed above, along with two related divisions (Dropout Prevention and Gifted) which are not necessarily concerned with the education of handicapped children.

The Associate Superintendent shall have the authority to direct local school principals to take specific measures to assure compliance with state and federal laws governing education of handicapped children. Such measures include procedures which ensure that handicapped children are appropriately, and in a timely manner identified, evaluated and served. Other procedures shall ensure that a sufficient number of classrooms are available in the local schools for all handicapped children able to be educated in a regular educational setting with the use of supplementary services.

Financial Resources

In order to provide the Associate Superintendent with the ability and resources to carry out the duties of the Department during FY 1990, including the elimination of the current backlog of initial and reevaluations over 60 days and placements, the Board has committed in its FY 1990 budget, funds for: outside evaluations ($3,000,000); contractual agreements for outside services not available through the Chicago Public Schools (occupational therapists, speech therapists, physical therapists) ($700,000); and Special Projects identified by the Associate Superintendent ($700,000).

Reorganization of the Department Structure

Central Services

Central Services is responsible for performing essential centralized services. One of its key functions is to perform special projects for the Associate Superintendent which relate directly to the education of handicapped children. During the first year of the implementation of the Plan, special projects shall include but not be limited to the following:

- Plan and implement a major recruitment campaign aimed at filling vacant and new positions created under this Plan which are essential for the education of handicapped students.

- Revise Chicago's Manual of Policies and Procedures for Education of Handicapped Children to update policies and procedures consistent with this Plan and applicable state and federal laws.

- Streamline the system of evaluation and reevaluation of handicapped students consistent with the law and parent and student rights, but which may lead to more effective use of staff time and more direct services to students. This includes identifying methods to assist all local school staff in making appropriate referrals, decrease costs at local schools whenever possible and utilize special education personnel more efficiently.

- Establish procedures to ensure that handicapped students have an equal opportunity to attend magnet school programs.

- Study the current distribution of special education classes throughout the system and make recommendations to be implemented in FY 1990 for the decentralization of special education services so that no school is disproportionately impacted.

- Study whether the Chicago Public Schools are taking advantage of all potentially available funds from the state and federal governments for the education of handicapped children, including whether the system obtains maximum reimbursement for personnel costs. The Department shall implement any recommended changes that would increase funding for special education to the system.

Central Services will also administer nonpublic school placements; conduct ongoing recruitment of qualified personnel necessary for educating handicapped children; coordinate paperwork and communications regarding government funded programs; identify qualified personnel necessary to serve handicapped children; draft proposals for private and government funding for special education; prepare reports regarding the distribution of services to handicapped children; coordinate research projects; arrange for responses to subpoenas for information; provide computer assistance to the local schools and to other divisions; and other functions as determined by the Associate Superintendent.

Monitoring

Monitoring will assist the Associate Superintendent in assuring that all state and federal laws are followed with respect to the education of handicapped students. Under the Chicago School Reform Act, the Chicago Board of Education has the clear responsibility for ensuring compliance with state and federal laws. Monitoring will perform the following functions to carry out the Board's responsibilities as they relate to special education:

- collect systemwide or focused data to determine compliance with federal or state laws, or Board policies and procedures. At minimum, the following will be monitored: time frames for evaluation and placement of all handicapped children; appropriate identification and provision of services to all handicapped students with special priority given to handicapped Hispanic and Black students; and an analysis of the completeness and quality of the evaluation process;

- receive and investigate complaints (which may be registered by any parent, student over age 18, educator, community resident, local school council, etc.) and determine what steps must be taken for correction if a legal violation is found;

- mediate solutions to complaints and respond to parental concerns about an individual child;

- represent the Board at due process hearings requested by parents/guardians under provisions of state and federal law.

Coordination and Assistance

When compliance problems are identified by Monitoring or elsewhere in the Department, Coordination and Assistance will coordinate the allocation of resources to the schools in order to resolve the problem. The solution may require contracting services from outside professionals or changing special education procedures or policies being followed at the school.

If the principal disagrees with a finding of noncompliance, the principal may appeal to the Associate Superintendent. The decision of the Associate Superintendent may be appealed to the General Superintendent. Once a decision has been made by the Associate Superintendent and not appealed to the General Superintendent or once the General Superintendent has made a finding on an appealed decision, the decision shall be deemed final. The Associate Superintendent shall have the authority to require any principal to make appropriate changes at the local school in order to comply with state or federal law.

Coordination and Assistance performs the administrative and communications functions of the Department. Parents, local school councils or school staff with inquiries regarding provisions of services may contact Coordination and Assistance for information or assistance. Division staff shall decide whether to handle the inquiry or coordinate with appropriate staff in other divisions to ensure that assistance is provided. If the division can identify no internal resource to provide the necessary help, staff will identify appropriate outside resources.

This division is also responsible for: finding placements for handicapped students until this function can be performed through school computers; allocating resources to school based assessment teams; identifying outside evaluators for the contractual provision of services as necessary; locating private school and non-public placements -- in collaboration with support service experts, instructional experts and central services personnel -- for the contractual provision of services; allocating classes for handicapped students to the local schools; coordinating inservice to school staff; coordinating home and hospital services; collecting and summarizing performance evaluations of personnel not assigned to a single school; and assisting in the location of nonpublic school placements. Principal and support staff preferences will be taken into account when allocating support staff to local schools.

It is critical that there be as much continuity of staff at a particular local school as possible. Therefore, if additional resources are needed in the schools, after Coordination and Assistance has allocated resources at the beginning of the school year, Coordination and Assistance will:

- identify for selection and hiring by the principal, additional permanent staff;
- identify consultants to be hired if permanent staff are not available;
- if no permanent staff or consultants are available, redistribute staff assigned to local schools, with as little disruption of services as possible.

Instructional Experts and Support Service Experts

Two divisions will be staffed with experts in the field of evaluating and educating handicapped students. Instructional Experts includes experts in all fields of handicapping conditions, including learning disabilities, mild, moderate, severe and profound mental retardation, orthopedic, visual and hearing impairment, autism and emotional disturbance. The staff will include persons with expertise in teaching handicapped students with limited-English proficiency, and early childhood education.

Staff will provide assistance to schools as requested and as necessary to comply with federal and state law. In addition, teachers with experience serving all types of handicapped children will rotate through the division for a period of two years to share their expertise, carry out the function of the Instructional Experts, keep the centralized experts apprised of conditions in the local schools and to return to the local schools with new ideas and practices gained during rotation. Rotations will be staggered so that only half the teachers are new each year.

Support Service Experts will be staffed by persons having expertise in social work, guidance ~~and~~ psychology. Such experts will include persons knowledgeable about evaluating limited-English-proficient students, as well as low incidence handicapped students and providing direct related services to students. This division will coordinate the psychology intern program, social work intern program and the Social Work Crisis Intervention Program. School based evaluators will annually rotate through the Social Service Experts division like the special education teachers rotate through the Instructional Experts division.

The director of one of the above named divisions shall be qualified as a Director of Special Education in Illinois.

Related Divisions

Medical Services division is responsible for nursing, medical consultation, psychiatry, hearing and vision screening and the personnel who evaluate students in these areas. Dropout Prevention is responsible for school attendance and pregnancy prevention. The Gifted division is responsible to all programs for gifted students.

Educational Diagnostic Centers

The three Educational Diagnostic Centers (EDCs) shall be permanently closed effective September 1989. Students who would have been evaluated at the EDCs will be evaluated or reevaluated at the local school in whose attendance area the child or the child's parent/guardian resides. The Medical Services units now housed at the EDCs and at the central office shall be consolidated into three units -- north, south and central.

Evaluations for any student requiring an alternative evaluation arrangement will be facilitated through the Coordination and Assistance division. The Associate Superintendent will develop and implement a transition plan for evaluations previously performed at the EDCs, including but not limited to providing diagnostic classes and implementing an effective communications system to avoid delays in the provision of services.

Local Schools

Consistent with the Chicago School Reform Act and applicable collective bargaining agreements, as openings become available for full-time personnel for the education of handicapped students in a particular school, the principal shall select new staff from a pool of qualified persons. The Coordination and Assistance division will assign all part-time personnel necessary for the education of handicapped children to local schools as needed, with input from the principal. All teachers, teacher aides, and evaluation staff shall report to the school principal during the time that he or she is working in the school.

The Department will have as a goal, the coordination of special education team visits to a school so that each team reports to a school of 500 as a team, at least three days every two weeks. The team shall include the principal, relevant teachers, aides, counselors, social worker, nurse and psychologist assigned to the school. In addition, low incidence team members will be assigned to teams by Coordination and Assistance as necessary.

The teams will have clerical assistants (6 hours per week). The principal shall choose a team leader who will be designated as the Associate Superintendent's designee and will be paid an additional stipend for the additional responsibility of acting as team leader.

These teams will be responsible for managing all special education cases in the local schools including, but not limited to: receiving all referrals for special education; receiving and acting upon applications from nonattending students; maintaining complete student records (including psychological reports) in a secure location in the school; screening students prior to evaluation to ascertain whether additional intervention measures might be effective; obtaining proper notice and consent; coordinating all components of the evaluation; seeking special services or consultation from Coordination and Assistance if necessary; entering all relevant information into the computer; identifying a placement when possible and seeking assistance from Coordinations and Assistance if necessary; and certifying a student for placement except in those cases identified below. (See, Placement Procedures below).

In order to ensure that their resources are used effectively, the teams will also study the referral patterns at the school to determine if inappropriate referrals are being made. If the team determines that a referral pattern problem exists, it shall work with the principal to remedy the problem. If necessary, the team may also request assistance from Coordination and Assistance.

The team will also provide all necessary information and advice to local school councils so that the council's Local School Improvement Plan can take into account the needs of handicapped students, as required by the Chicago School Reform Act.

Evaluation and Education Resources

Evaluation and Education Resources at Local Schools

In order to evaluate students in a timely manner and to provide them with the related services necessary to enable them to learn, the following resources are necessary. The Board has committed the financial resources to recruit and hire the additional personnel necessary to achieve these numbers. These figures are based on a total school population of 410,000, of which 113,000 are in high school:

> **320** social workers, which would mean a 1/1280 social worker to student ratio for the total school population. This is also the average statewide ratio for districts in Illinois not including Chicago.
>
> **251** psychologists, which would result in a 1/1632 psychologist to student ratio for the total population. This is also the average statewide ratio for districts in Illinois not including Chicago.
>
> **1,000** counselors which would increase the number of guidance counselors at the elementary school level so that at least one full time counselor can be assigned to each school and would increase the number of guidance counselors at the high school level to achieve a 1/250 counselor to student ratio.

Until the above ratios and levels of staffing have been achieved, qualified staff will be offered the option of extended day and/or working during the summer.

The following additional resources are necessary, and the Board has committed the financial resources to recruit and hire such personnel, in response to the anticipated reduction in the backlog and the anticipated increase in the number of new referrals, evaluations and placements:

100 additional special education classroom-based teachers over and above the number of special education classroom-based teachers on staff at the end of the 1988-89 school year;

100 additional special education teacher aides over and above the number of special education teacher aides on staff at the end of the 1988-89 school year;

appropriate numbers of teachers will be budgeted for 12 months in anticipation of the need for summer school staff;

a stipend will be paid to the team leader at each school;

funding for one clerical person to assist in clerical tasks related to case management, one day per week during the regular school year at each school. This will allow professional staff to concentrate on providing direct services to students.

At these staffing levels, most schools of 500 students with an average number of handicapped students would have a team assigned to its school three days every two weeks. The number of days that a team is at a particular school would increase or decrease depending on factors such as whether the school has an unusually high or low number of handicapped students, and the number of referrals. Currently, a team visits most schools one day a week.

Other Evaluation and Education Resources; Backlog

In order to decrease the backlog of evaluations and reevaluations that presently exceed the 60 school day limit (estimated to be 4,000 but the number may be higher), the

Department must utilize additional external resources. The Board shall budget a special fund for FY 1990 of $3,000,000 to be expended at the discretion of the Associate Superintendent to purchase contractual evaluation services as needed.

By the 30th calendar day after the start of the 1989-90 school year, the Board will provide OCR: 1) a list of all students who, as of 7 calendar days prior to the report date, had not been evaluated within 60 school days of referral; 2) a list of all handicapped students who by the same date had not been reevaluated within three years of their last comprehensive case study evaluation; and 3) a list of all handicapped students who were found eligible for special education and/or related aids and services before the start of the 1989-90 school year and were not placed by the date of the report. Students will be listed by identification number, school, date of referral and date of multi-disciplinary staff conference (where appropriate). These Assurances, these three lists shall comprise the evaluation, reevaluation and placement backlogs ("Backlogs").

By two months after the start of the 1989-90 school year, all of the students in the placement Backlog will be placed.

By the first day of the 1990-91 school year, all of the students in the evaluation and reevaluation Backlogs will be evaluated.

Seventy-five percent (75%) of all students referred for an evaluation or due for a reevaluation from the first day of the 1989-90 school year through August 30, 1990, will be evaluated within 60 school days of referral.

By the first day of the 1990-91 school year, all students who were determined to need special education and/or related services prior to the beginning of the school year will be placed.

By the first day of the 1991-92 school year, no evaluations or reevaluations will have remained incomplete for longer than 60 school days from the date of referral.

In order to ensure that other services not available through the Chicago Public Schools (speech therapists, physical therapists, occupational therapists, etc.) will be available to handicapped students, the Board shall budget a special fund of $700,000 each year to be used by the Associate Superintendent to contract for such outside services.

Other Resources

This Plan requires the reallocation of personnel and job responsibilities and the assumption of new responsibilities. The Plan also requires the implementation of special projects assigned by the Associate Superintendent. The Board shall budget a special fund of $700,000 each year to be used by the Associate Superintendent to fund these needs.

Staffing at the Central Level

The reduced staffing level at the central level which will assist the implementation of this Plan are detailed in Attachment B.

Public Information

In order to provide parents, members of the school community, educators, and local school councils with the information necessary to carry out the Chicago School Reform Act, all public information collected and analyses of that information, reports, etc. (including but not limited to, documentary or computerized information in computer tape format) shall be available to the public, subject to applicable law regarding confidentiality of personally identifiable information.

Placement Procedure

As soon as possible, but no later than October 1, 1989, the Associate Superintendent will implement a procedure for certifying at the staffing conference held at the local school in which the parent/guardian is a participant, that a student is handicapped and in need of services. The procedures will also set forth circumstances under which the Coordination and Assistance division must be contacted prior to committing resources. It is anticipated, however, that almost all students will be able to be certified at the school level without consultation with the Coordination and Assistance division. In addition, the local school team will design a program that will be each student's individualized needs.

The Associate Superintendent will implement a school based computerized system for placing students in programs designed by the local school teams, within the Chicago Public Schools as soon as possible. Under the system, parents and school staff will be able to ascertain placements electronically, and will provide parents with a number of immediate choices for selection. Relevant information regarding the student's placement shall be entered into the computer so that the Coordination and Assistance staff can monitor progress and the status of the student's case.

Prior to the completion of the computerization of the placement system, Coordination and Assistance will be responsible for assisting the parent in identifying available placement options to provide the programs designed by the local school teams and for ensuring an appropriate placement as soon as possible after certification.

It is the goal of the Board to place all handicapped children as soon as possible but no later than 30 school days after certification. It is not anticipated that this goal will be met until after the computer placement system is fully operational. Until such time, the Department shall ensure that placements are made in compliance within the time periods set forth in state and federal laws and implementing regulations.

Training

In order to effectively implement the Chicago School Reform Act, the Department will have the responsibility of educating parents and local schools councils about the system's obligations to serve handicapped children so that a school's Local School Improvement Plan addresses these obligations.

In order to implement this Plan, all special education personnel will be trained in their new roles and responsibilities. At minimum, training will be provided by the Department in the following areas:

- effective local school team strategies
- PPS/SIS computer technology
- curriculum-based assessment and nondiscriminatory assessment
- integration of handicapped students with nonhandicapped students, to the maximum extent appropriate with the needs of each handicapped student
- program evaluation

Plan Implementation

The Associate Superintendent shall oversee and shall be responsible for implementation of all aspects of this Plan.

As soon as possible thereafter, but no later than the first day of the 1989-1990 school year, the Associate Superintendent shall submit to the Board a detailed description of how this Plan will be carried out.

The Associate Superintendent shall provide written quarterly reports to the General Superintendent and the Chicago Board of Education on the status of implementation. The first report is due 90 days after the Associate Superintendent assumes the position.

The reports shall include, but not be limited to providing a detailed analysis of the Department's progress toward identifying and hiring qualified staff for the Department; progress in eliminating the backlog of overdue evaluations, reevaluations and placements by the end of FY 1990 and the end of FY 1991; status of special projects; a report of information obtained by the Monitoring division; problems encountered by Department and local school staff implementing this Plan; and a description of how special discretionary funds have been used.

The Board and the Superintendent shall have the authority to request and receive any information they believe is necessary to determine whether the Plan is being properly and timely implemented. The quarterly report submitted immediately prior to the development of the FY 1991 budget should identify readjustments, if any, necessary to implement the Plan and to reach the goal of eliminating the backlog of overdue evaluations and placements of handicapped children by the end of FY 1991.

Appointment of Associate Superintendent

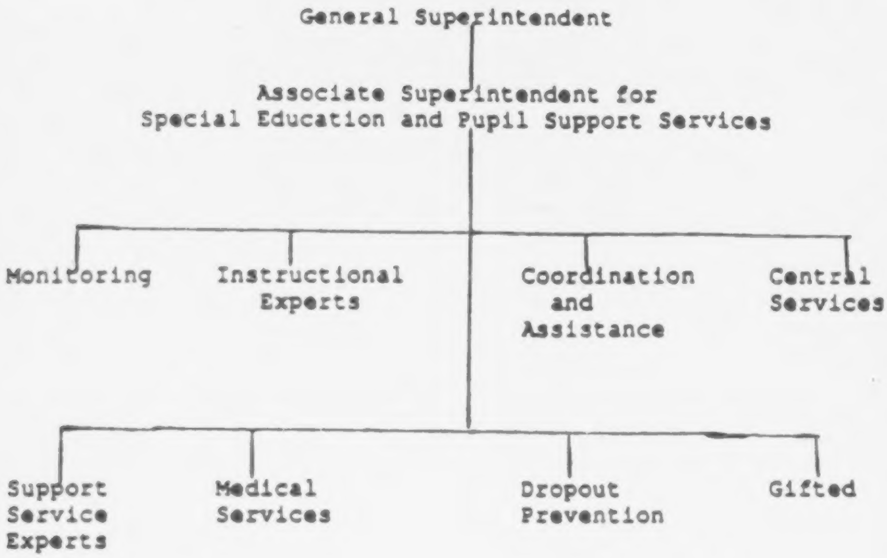
The Board shall appoint an Interim Associate Superintendent on or before August 1, 1989. The General Superintendent shall conduct a nationwide search to fill the position of Associate Superintendent. The Interim Associate Superintendent shall automatically be considered a candidate for the position of Associate Superintendent. The Interim Associate Superintendent shall have all of the responsibilities and authorities granted under this Plan to the Associate Superintendent.

APPROVED: Joan Jeter Slay DATED: July 12, 1989
Joan Jeter Slay
Chairperson,
Reform Implementation
Committee of the Chicago
Board of Education

DATED: July 12, 1989
William S. Singer
Chairman,
Budget and Finance Committee

ATTACHMENT A

DEPARTMENT OF SPECIAL EDUCATION AND PUPIL SUPPORT SERVICES



Attachment B

Department of Special Education and
STAFFING LEVEL AT CENTRAL OFFICE
UNDER REORGANIZATION PLAN

Division	Position	Number
Assoc. Supt.	Associate Supt.	1
	Admin. Asst.	2
	Clerks	1
Monitoring	Director	1
	Coordinators	2
	Career Service	15
	Clerks	4.5
Instructional Experts	Director	1
	Coordinators	10
	Rotating Teachers	14
	Clerks	5
Coordination/ Assistance	Director	1
	Coordinators	2
	Career Service	12
	Career Service (6 months)	3
	Clerks	4
Central Services	Career Service Director	1
	Special Projects Coordinators	3
	Coordinators	3
	Nonpublic Tuition Coordinators	2
	Career Service	2
	Clerks	3
Support Service Experts	Director	1
	Coordinators	4
	Rotating Support Service	8
	Clerks	2.5
	TOTAL:	108

The Administrative Assistants for the Associate Superintendent will take on responsibilities as determined by the Associate Superintendent.

The Monitoring Director and the two Monitoring Coordinators will each be responsible for one of the following: due process, complaint investigation and monitoring. Seven of the fifteen career service personnel in Monitoring will investigate complaints, seven will monitor due process and one will work on due process issues.

The Director and his or her ten Coordinators will collectively possess expertise teaching all types of handicapped children. The fourteen rotating teachers will possess a range of expertise in handicapping conditions.

The Director and two Coordinators in Coordination and Assistance will direct the work of the twelve Career Service Personnel. In addition, three, six month career service persons will handle the placement assistance until the computerized system is fully operational.

Two Central Services personnel will be responsible for special projects as directed by the Associate Superintendent, two will be responsible for processing non-public tuition arrangements for non-public students, one Coordinator will be responsible for the recruitment campaign and two Coordinators and three career service staff will perform the remainder of the division's work.

Attachment B (1 of 2)

Chicago Tribune Friday, July 21, 1989 North

Schools revamp plan for handicapped

By Jean Latz Griffin

The interim Chicago school board, to avert the loss of up to $117 million a year in federal and state funds, has hastily rewritten a plan to educate handicapped children and will create 350 new education positions.

The board has scrapped five years of futile attempts by school administrators to meet federal laws in educating handicapped children to settle a long-running dispute with the federal government, board president James Compton is expected to announce Friday.

The agreement will take $4 million of $8 million from trimming the central office bureaucracy and create 350 new positions to help educate 42,000 handicapped students, including children who are blind, deaf, physically handicapped, learning disabled or mentally retarded.

A new associate superintendent will oversee education of the handicapped. Nearly one-third of the 200 teachers now working as bureaucrats will be put back in classrooms. About 100 special education teachers and 100 teacher's aides will be hired.

A backlog of 4,000 to 6,000 students—who have been waiting for months to be tested for special help—will be evaluated and placed in appropriate classes by September of 1990, the agreement says. At the same time, school officials will keep up with the 18,000 new students who are referred each year for help.

Chicago has had a backlog of students to be tested since they got behind in the early 1980s. Parents sued and school officials retested 8,000 students, mostly black, who had been labled mildly retarded. Nearly 2,300 were found to have normal intelligence. Few other students were evaluated during that time and the schools have never caught up.

The way in which the current agreement was reached is likely to be controversial and add to the friction between interim board members and Supt. Manford Byrd Jr.

Compton is expected to announce the agreement Friday, according to documents obtained by The Tribune, and use the occasion to sharply criticize past school practices.

A draft of a statement to be read by Comptonstates:

"This settlement brings to an end what can only be described as the shameful and disgraceful mistreatment of those children who are the most vulnerable and in need of special care.

"Any school system that tolerates the neglect of those children most in need of love and special care, for whatever reason, is a school system that has lost its sense of mission and compassion."

A source close to Compton and the interim board said Thursday that board members were surprised when one board member and a school attorney informed them only three days before an impending deadline of June 30 that $4 million would be lost if an agreement was not reached.

"A board member and a school attorney tipped us off," said the source. "We had to go to Washington begging for an extension. The superintendent and adminis-

See Schools, pg. 4

Schools

Continued from page 1

tration never told us. I guess they were just going to let the money be lost."

Attempts to reach Byrd end other school officials for comment on the new agreement or how it was reached were unsuccessful.

"It appears that one of the reasons that the interim board was able to accomplish in three weeks what the administration has not been able to do in five years is the presence of board member Joan Jeter Slay.

Slay is a staff member of Designs for Change, the advocacy group that has been in the forefront in criticizing the way the Chicago schools test and educate handicapped children. In 1986, the agency asked the federal government to withhold funds until Chicago cleaned up its act.

The agreement, with its emphasis on decentralization of power to the local schools, is similar to what Designs for Change has been proposing.

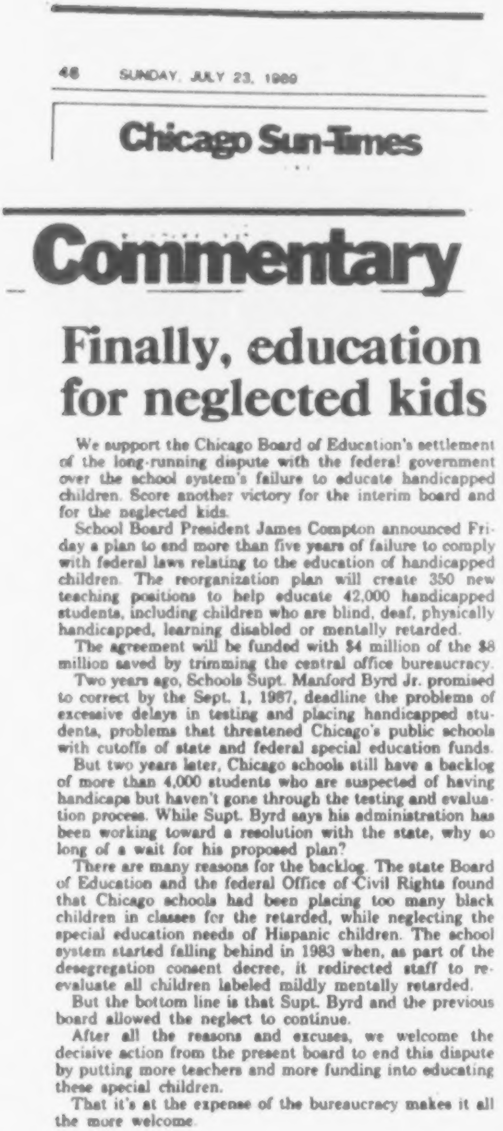
"This agreement was the brainstorm of the board and its volunteer transition team," said the source. "Of special help was Joan Jeter Slay, who has special knowledge in this field. The board virtually worked around the clock."

The agreement sets up an extensive monitoring system to make sure that the schools comply with federal laws regarding the education of handicapped students. The schools have been violating these laws, the federal government says, for at least five years through delays in testing children and giving them special help.

The board was first warned by federal officials in 1984 that it discriminated against handicapped students. A formal complaint was filed in 1986, and despite what federal officials called "vigorous negotiations," Chicago never developed a satisfactory plan to test students promptly and give them an appropriate education.

An extensive review of Chicago school records by federal officials showed that from 1983 to 1984, nearly 45 percent of children waited four months, 14 percent waited eight months, and one child waited two school years to be evaluated for special help. The legal maximum is 60 days.

Attachment B (2 of 2)



48 SUNDAY, JULY 23, 1989

Chicago Sun-Times

Commentary

Finally, education for neglected kids

We support the Chicago Board of Education's settlement of the long-running dispute with the federal government over the school system's failure to educate handicapped children. Score another victory for the interim board and for the neglected kids.

School Board President James Compton announced Friday a plan to end more than five years of failure to comply with federal laws relating to the education of handicapped children. The reorganization plan will create 350 new teaching positions to help educate 42,000 handicapped students, including children who are blind, deaf, physically handicapped, learning disabled or mentally retarded.

The agreement will be funded with $4 million of the $8 million saved by trimming the central office bureaucracy.

Two years ago, Schools Supt. Manford Byrd Jr. promised to correct by the Sept. 1, 1987, deadline the problems of excessive delays in testing and placing handicapped students, problems that threatened Chicago's public schools with cutoffs of state and federal special education funds.

But two years later, Chicago schools still have a backlog of more than 4,000 students who are suspected of having handicaps but haven't gone through the testing and evaluation process. While Supt. Byrd says his administration has been working toward a resolution with the state, why so long of a wait for his proposed plan?

There are many reasons for the backlog. The state Board of Education and the federal Office of Civil Rights found that Chicago schools had been placing too many black children in classes for the retarded, while neglecting the special education needs of Hispanic children. The school system started falling behind in 1983 when, as part of the desegregation consent decree, it redirected staff to re-evaluate all children labeled mildly mentally retarded.

But the bottom line is that Supt. Byrd and the previous board allowed the neglect to continue.

After all the reasons and excuses, we welcome the decisive action from the present board to end this dispute by putting more teachers and more funding into educating these special children.

That it's at the expense of the bureaucracy makes it all the more welcome.

STATEMENT OF CHARLOTTE DES JARDINS, COORDINATING COUNCIL FOR HANDICAPPED CHILDREN, CHICAGO, IL

Ms. **Des Jardins.** First of all I also wanted to express our appreciation for your continued commitment, Senator Simon, in terms of improving special education services. And we are looking forward to your continued leadership, not only in Congress, but also in the White House. We will have to magnify our efforts the next time we have a national election.

Now, I certainly do concur with the remarks that have been made by my two colleagues here. I would like to mainly emphasize though, points that have not yet been brought up by other speakers here at this hearing.

Because our organization is located in Chicago, although we do cover the whole State, most of the people who contact us for services are from Chicago and the suburbs. We do have access also to other people from other parts of the State, and even from other parts of the country. So we do have kind of like a statewide view, but most of the problems that I am going to be discussing are problems specifically brought to our attention from people who live in the Chicago metropolitan area.

I have to acknowledge at this time that I am looking forward to a new era because of the changes that have been brought about that Sharon has already mentioned to you. And also I have to acknowledge that I am very encouraged by our new State administration in special education because it is the first time that we have had a State administration that has actually publicly acknowledged that Chicago is part of the State of Illinois.

Previously what we have had in effect is a State administration that was kind of looking at Chicago as another State, and hoping the problems would go away. But we have had some serious attempts to tackle our very, very serious problems in Chicago. Much more needs to be done, however, and those are the problems that I want to talk about.

One of the major areas that is very serious but nobody has brought up is the area of surrogate parents in the State of Illinois. As you know, there is a provision in our Federal mandate for surrogate parents for children who are wards of the State. There are thousands of these children in Illinois, and there really are not ample surrogate parents to cover all these thousands of children. I, myself, signed up to become a surrogate parent because I knew of the magnitude of the problem. I am a surrogate parent of a child with Hepatitis B who had never been outside of the hospital since the day he was born, and is now four years old. Only a couple of months ago he was finally given services because I filed a due process hearing after notifying the Chicago Board of Education and giving them ample opportunities to take action.

But what I went through as a recognized advocate should not be necessary for people who are trying to help children who do not have natural parents available to them. Imagine how hard it is for a person to have to confront 10 to 15 people at a meeting to help a child who is not their natural child and to whom they do not have access on a daily basis. That is what happens with a natural parent who does have access, but imagine when a person is not the natural parent, does not have access to this child, and does not have access to all the information that a natural parent would. Imagine being thrust in that position.

I already had the information at my fingertips from the work that I do with parents. But even so, I was treated I am sure just the way that practically all surrogate parents are. I found that the Board of Education people were completely uncooperative, actually going out of their way to intimidate me. They even gave me an IEP to sign and because I insisted on reading it before I signed it, said, "What is the matter with you, don't you know what an IEP looks like?" Exactly in those words.

I found it appalling that the parents who are involved as surrogate parents get only three hours of training. It is not possible to handle this kind of a job, this kind of intimidation, with only three hours of training. The other thing that I found was that Chicago Board of Education personnel obviously had very little idea about what a surrogate parent was supposed to do. Neither did the Illinois Department of Children and Family Services, and the case workers who showed up at these meetings. At one of the meetings that I attended which was an IEP meeting for my surrogate child, when I was disputing the small amount of services the Board was proposing, the DCFS case worker actually looked at me and said to me, "Why are you acting this way? You are behaving just like an advocate." It was indicative to me that she had no idea what the role of a surrogate parent was. And I have been having to inform not only the Chicago Board of Education people what the role of a surrogate parent is, but also the Illinois Department of Children and Family Services people. They were actually under the impression that they were the ones who were supposed to sign the IEP, that they were the ones who were supposed to represent the child at IEP meetings and due process hearings. They were appalled when I called a due process hearing and that I had invited people to come with me. They said you have no right to do this. They had no idea what was happening.

So obviously there needs to be more orientation of school personnel and DCFS people about the role of surrogate parents.

Another very serious area that has not been brought up by other people, is children who have drug addiction. We know what Secretary Bennett came up with in terms of students and other people who have serious substance abuse problems. Put them in jail is his recommendation. But when these people are students and they are actually threatened with jail, in some school districts, the school districts refuse to transfer the educational funds that would allow them to go to a rehabilitation facility and take care of their substance abuse problem.

I have been fighting this with the legal department of the Illinois State Board of Education, and fighting a memo issued by Daryl Rider which says Public Law 94-142 funds cannot be used for this. I asked for a clarification by Tom Bellamy, but he gave such a round about way of answering this question, he actually said, "Well, yes, they are entitled to an education, but no, they are not entitled to special education funds." So again it does not resolve the issue.

Senator SIMON. If I could ask you to summarize.

Ms. DES JARDINS. I understand. Those are just two of the very serious problems that we are faced with. We need to have a very clear policy on Public Law 94-142 for children who are substance abusers which properly defines, as Section 504 does, a substance abuse problem as a disability. They whould not be faced with all this run around in terms of trying to get an education. We are faced with parents who are having problems and have to make a choice in terms of having their children receive treatment as ordered by the Court after their children are in jail, and giving up their education, or continuing their education and giving up treatment as ordered by the Court.

This is not the kind of choice a parent should have to make. We are very hopeful that we will continue to have progress in this area, but I believe that some of the recommendations that have been made by previous speakers about increased training of parents is one of the solutions and remedies that we need to seriously address. I know there was pending legislation in this area, but there are a lot of parents who still have no idea what to do. There are not enough parent training centers, not enough money available.

Senator SIMON. I do not mean to cut you off.

Ms. DES JARDINS. I understand. Thank you very much.

[The prepared statement of Ms. Des Jardins follows:]

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LET'S MAKE WAVES
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PREPARED STATEMENT OF CHARLOTTE DES JARDINS

The Coordinating Council for Handicapped Children is a coalition of parent and professional organizations, working together to improve services for all children with disabilities for more than 20 years.

We appreciate this opportunity to present testimony at this P.L. 94-142 Oversight Hearing. Since the presentation of testimony at another oversight hearing, also conducted by Congressman Simon, more than ten years ago, we have seen much progress in the implementation of our new federal special education mandate. But many serious problems remain, and we wish to address some of these today.

(1) Unserved children who are wards of the state: Thousands of children in Illinois - many of them in Chicago - remain unserved, without the special education services they are legally entitled to under P.L. 94-142, simply because their natural parents are not available, and they are wards of the state. P.L. 94-142 requires the appointment of a "surrogate parent" for children with disabilities who are wards of the state, to safeguard their right to educational services. But many children in Illinois still do not have appointed "surrogate parents" - hence are often denied their right to an appropriate education under the law. It took the Illinois State Board of Education more than ten years to begin to implement the surrogate parent requirements of P.L. 94-142. And today, fourteen years after passage of P.L. 94-142, the Illinois Surrogate Parent Program is grossly inadequate, with inadequately trained parents (a total training of only three hours), who are not sufficiently prepared to carry out their responsibilities as surrogate parents. Compounding the problem is the lack of orientation of the Department of Children and Family Services (DCFS) case workers and staff who do not appear to understand the role of surrogate parents, and who continue to illegally represent wards of the state at special education meetings in some cases.

(2) Suspension/expulsion of students with disabilities: Many public school districts appear to be completely ignorant of the Hoenig v. Doe U.S. Supreme Court decision (of January 20, 1989), and its implications. Suspensions and expulsions of students with disabilities often occur without procedural safeguards. Sometimes the student's disability has never been specifically addressed by the school district, in spite of repeated requests for an evaluation by the parents. And many of these students are then pushed out of school to join the ranks of the unemployed.

(3) Denial of services to Children with severe emotional problems who require a therapeutic residential placement - who get caught in the middle of a bureaucratic football game when their parents try to obtain this placement. Because of the enormous costs involved, such placements can only be implemented at public expense - through an individual care grant from the Illinois Department

of Mental Health and Developmental Disabilities and/or a combination of local, state and federal education funds. Because neither IDMH/DD, nor the school agencies are willing to assume financial obligation for this placement, the child and the family are literally left hanging without desperately needed services, often in life threatening situations.

(4) Denial of Educational Services to Children with substance abuse problems. Students with substance abuse problems often have nowhere to go. As in the situation above, a private residential therapeutic placement, or a private drug rehabilitation facility is necessary; but school districts often refuse to pay school tuition to allow the student to get the needed therapy, and education public funds are seldom available. Sometimes the student is actually under a court order to enroll in a drug rehabilitation program - but, in order to do so, he must, in practice, sacrifice his right to education, since the school district refuses to transfer the student's educational ADA funds to the school district in which the Rehab facility is located (usually hours away from the home district). This critical problem is especially ironic at this time, because of U. S. Drug Chief William Bennet's recent announcement of harsh penalties for both students (and their parents) who are involved with drugs. Even though therapeutic placements are cheaper and much more effective, Bennet's recommendation is jailing. This problem has been brought to the attention of Tom Bellomy, former director of the Office of Special Education Programs (OSEP), but his written response, in effect, supported the position of the Illinois State Board of Education Legal Department that children with substance abuse problems are not eligible for P.L. 94-142 funds unless they also have another disability.

(5) Integration of children with disabilities with their non-disabled peers, without losing services they need and are legally entitled to. In many school districts, especially in Chicago public schools, parents are not offered any choices, and are forced to accept placement in a "handicapped school" because of the Chicago Board of Education's perception that this is the only appropriate placement. Little effort is made by the CBE to remove accessibility barriers in existing schools, nor to make educational opportunities available in new schools which have few barriers (the magnet schools). The problem is compounded by the unavailability of support services when children are placed with their non-disabled peers in regular classes (as you may recall, a concrete example of this problem is the Simeon High School football star whose football injuries resulted in his becoming a quadraplegic - who was referred to the "handicapped school," Spalding, when he was ready to return to school).

(6) Appropriate, Individualized Services. Although federal and state laws require appropriate services for all children with disabilities, with individualized educational services for each student - educational decisions are often made based on available programs, available funds, and available personnel. This problem is especially acute in Chicago, where Chicago special education students are routinely given only 30 minutes a week of related services such as occupational therapy, physical therapy, and speech therapy - no matter how severe the need. In most suburbs, 60-90 minutes a week are often allowed, more than double the Chicago Board of Education's routine allowance. This is a systemic problem which apparently involves a violation of the law in many special education cases, and needs to be addressed. We hope the new remedies announced by the Chicago Board of Education at last Friday's Press Conference (7/21/89) will mean concrete progress in this problem area.

These comments are based on the more than 3600 documented calls for help received by the Coordinating Council for Handicapped Children each year, and the problems brought to our attention by the parents making these calls. We appreciate your consideration of the issues addressed in this statement. It is our hope that there will be a positive outcome to this hearing with concrete steps to remediate these problems.

Senator SIMON. Thank you very much. First of all, let me commend the new Board of Education in Chicago, where clearly there is a commitment. In the last three weeks, I have been in fairly regular contact with them. I am pleased this has worked out. It is going to save money for the City of Chicago and you are correct. The $4 million is what was the tip of the iceberg that caused it, though they were concerned about the loss of all Federal funds obviously. But to their credit, they were interested not just in the money, but they were interested in seeing that they could do a job that needs to be done.

Mr. Zayas, may I ask about something that you did not testify about? You are Puerto Rican by background. We have 3.5 million Americans who are Puerto Ricans who live on the island. They do not have representation in the House and the Senate, and too frequently, Puerto Rico frankly gets the short end of the stick on what passes in Congress. Have you had any observation about how Public Law 94-142 is working on the island at all?

Mr. ZAYAS. I travel to the island on the average of twice a year. And I met, two years ago, with the President of the House of Representatives of Puerto Rico. And in my extensive travels around the island, I have found that because of the cultural attitudes toward disability Public Law 94-142 is not encouraged. Its implementation is ignored by the common people on the island as well as the legislative representatives on the island, to the point that, one of my cousins is the comptroller for the governor, and she informed me that millions of dollars are sent back annually to the Federal Government because Puerto Rico refuses to contract with private agencies to provide services on the island. Unless you are government affiliated there is a resistance on the part of the government to issue these moneys.

I warned the President of the House of Representatives that if this matter was not cleared up in two to three years, that we would initiate a lawsuit with the assistance of the law project in California to effect that change in Puerto Rico. We are just beginning to organize the parents on the island through an organization called Fiesta. In a couple of years we want to put a chapter in Puerto Rico to educate the people, especially the legislative representatives, on what they are doing and that they are not maximizing the full potential of the Federal funds that they are already receiving, even though we know they are entitled to more.

Senator SIMON. If I can be of help as you move along on this, I am eager to be helpful.

Mr. ZAYAS. One of the things you could be of help on is here in Illinois we want to do recruitment of special education teachers and pupil personnel service people, such as counselors and psychologists. However, to get the people certified here in Illinois when they come with degrees from Puerto Rico is very, very difficult. The public schools apply pressure from the professional associations and there are State guidelines for licensing. If those could be loosened up, we could maybe do a little bit more active recruiting on the island to bring professionals from the island to serve some of our people here.

Senator SIMON. We are eager to help. Could you give me the numbers again on Chicago schools and counselors and so forth?

Mr. ZAYAS. Only 46 of 3,500 special education teachers are Hispanic, but mind you, those 46 Hispanic may not be working with bilingual Hispanic children.

Senator SIMON. So 46 out of 3,500.

Mr. ZAYAS. Right.

Senator SIMON. And yet about 25 percent of the school enrollment is Hispanic, is that correct?

Mr. ZAYAS. About 25 percent. And then 27 of 807 counselors, guidance counselors, and only 16 of 174 psychologists are Hispanic.

Senator SIMON. Ms. Soltman, first of all, your organization, Designs for Change, has received the Federal grant for the parent training program in the State of Illinois.

Mr. ZAYAS. Can I make a comment on that, Senator?

Senator SIMON. Yes.

Mr. ZAYAS. These are two friends of mine so they will forgive me for making this comment. But I have been pushing that the Federal Government for the first time fund a parent training program for Hispanic parents. Currently, the way the government is answering the question is by sponsoring a half time or one full time position within English speaking programs to provide service capability to close to one million Hispanics, of which one-tenth are physically or mentally handicapped individuals. You are talking about a potential population of 100,000 individuals.

So I have been wrestling with OSERS to extend the funding this time around, but I would definitely want one project in L.A., New York, Chicago and Miami for Hispanic parents, run by Hispanic parents, from those communities.

Senator SIMON. You have put your program together. Ms. Soltman, you mentioned one thing that really is a problem and that is designating people as EMH when they are not in that category. Dexter Manley, I mentioned before, when he was in the third grade was having problems and they just put him in the special education class, and they put him off in the corner and gave him some blocks. And he knew he was bright, he knew he was having problems. He did not know why, and fortunately athletics became his outlet. Where Dexter Manley would be today if that were not the case, who knows.

But this is an area that really is a problem. I do not know how we address it legislatively. Do you have any suggestions?

Ms. SOLTMAN. Well, I think that part of it is training of people to evaluate children better. And also, I guess, legislatively that is a very difficult question because it is the implementation of the legislation. There is a study out of California that shows that misbehavior in the classroom is one of the main reasons that children are referred for special education to begin with. EMH classes are self contained, out of the way. LD is mostly resource. I think that legislatively it would only be increasing funds for training of personnel so they would make better decisions and understand there are other options besides the ones that they have chosen.

Senator SIMON. And it ties in with Ms. Dodd's testimony on finding those learning disabilities as quickly as possible too. Ms. Des Jardins, how do you become a surrogate parent?

Ms. DES JARDINS. You fill out an application, that is what I did. And then——

Senator SIMON. Application with whom?

Ms. DES JARDINS. Excuse me. With the Illinois State Board of Education. Then you get a letter certifying you as a bonafide or surrogate parent for a particular child.

Senator SIMON. And do you go there with a child in mind or do they assign a child?

Ms. DES JARDINS. I was assigned a child who had never been out of a hospital. Still is in the hospital, from the day he was born.

Senator SIMON. Let me just add one other thing. You mentioned drug addiction, which really is a terrible problem. And I, let me add, was one of two people in the Senate who voted against Bill Bennett for drug czar. He came in three years ago and asked for a cut of 50 percent in drug education funds. To name someone U.S. Drug Chief who has asked for a 50 percent cut in drug education funds is just incomprehensible. But the problem is just a huge, huge problem. And we really have to deal with it.

Let me thank the three of you and all of you who have testified and who are working in this area where it really is important. We test whether we are a civilized society not by whether we pander to the whims of the rich and the powerful, that is an easy thing for government to do, but whether we help people who really need the help. And you are all involved in doing that, and I commend you for it. Thank you very much. The hearing stands adjourned.

[Additional material submitted for the record follows:]

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PREPARED STATEMENT OF DONALD ROME

I am concerned about efforts to change the current flow of federal funds from going to the co-op's and regional programs to a system of flowing these funds directly to the local school districts.

I have not personally participated in recent debates about funding and least restrictive environment. I speak from my own experiences. I can only conjecture about what others have been saying and whether my comments are on point.

I support and believe in the concept of least restrictive environment. The current co-op and regional structure can create an incentive for some special education administrations to place children in more restrictive environments; either to justify and enlarge their own programs, or simply because that is what they have to offer.

However, it is my opinion that these co-op's and regional programs are absolutely necessary to protect the educational rights of handicapped children. Moreover, the flow of money should continue to be through these programs and not directly to the local school districts. The control of money is the control of educational services to handicapped children.

Local Districts Should Not Receive Funding Direct

Local school districts often fail to understand the reason for special education, the basic concepts behind 94-142. Their constituency, and the constituency that elects their boards are the families of the mainstream program children. Often they believe that the higher per capital spending on special education is discriminatory against the regular education program. As a result board members often believe that they are doing their proper duty and responsibility to all children within their district to cut back on special education. They believe that equal dollars per child is the issue.

Local school districts are not equipped to properly identify and evaluate special education children. If left to local school districts, there would be a tremendous increase in special education children who are not serviced because they are not identified. A lot of local school districts simply do not want the job.

Local districts cannot resist budgetary pressures on mainstream programs. The co-op's and regional programs existance and purpose is the education of special education children. Without a bureaucracy with a vested interest in special education these children will not be protected from the budgetary pressures facing regular programs.

Least Restrictive and Mainstreaming are Different Concepts

The concept of the least-restrictive environment acknowledges that there are instances where mainstreaming is not the most appropriate placement. It is my opinion that for deaf and hard-of-hearing children the availability of a viable self-contained program is a must. Not all hearing impaired and deaf children require self-contained programs, nor do those children who require them, need a self contained program for all of their school years. But, the option is necessary, and this can only be provided by the regional programs.

A central feature of current special education law is parental input in the decision-making about a child's placement. This input is provided by the staff conference procedures. Without the regional programs that process is nullified, the parent's have no choice - no input. The placement has been predetermined in Springfield.

The least restrictive environment, and the resulting emphasis on mainstreaming is based upon the assumption that this will generally result in a better education for the child. Mainstreaming is not the goal per se. That goal is the education of the child. For many hearing-impaired children mainstreaming will not provide a better education. The decision whether or not to mainstream a child is best made by the parents, with the assistance of their educators. These are our children, our lifelong responsibility, the procedure of the staffings is a good one.

Oversight

Is is an easier task to oversee the co-op's and regional programs than local districts. The issues that require supervision are clearer. Co-op's that attempt to promote their existence contrary to the least restrictive environment are easy to spot. Regulations to combat the most serious abuses of co-ops and regional programs are more enforceable than efforts to regulate the day to day affairs of local school districts.

Our Personal Experience

My child has a moderate to profound bilateral hearing loss in both ears which is successfully aided by amplification. He suffers moderate gross and fine motor skill problems. He also has what's loosely described as attention deficit disorder. These handicaps are the result of his premature birth.

When we were residents of local school district 102, which participates in the Special Education District of Lake County (SEDOL) we went through levels 1 and 2 of the due process procedures and into the federal courts. Prior to the court hearing the district settled with us on a placement but refused to reimburse us our fees. They disputed our fee petition, but the judge ruled that we had prevailed and awarded us 100% of our fees.

In our dispute with the district we sought to have our child placed in the local school with part-time supportive services. The district sought to place our child in the SEDOL self contained program. Our requested placement would have been far less costly to the local district. Our problems with the SEDOL placement had two root causes:

- . SEDOL was not a sufficiently large district to have a viable self-contained program. They did not have the population base, and they did not have sufficient enrollment. As a result there was no distinction at my child's level between deaf and hard-of-hearing. Class groupings were unstable and contrived. They sought to place my child back a year because they didn't have any children his age with his handicapping condition.
- . SEDOL chose to build a separate building for it's hearing impaired program. As a result the children were denied normal interaction with nonhandicapped peers during nonacademic portions of the day; recess, lunch, music, gym, etc.

Our difficulties with district 102 stemmed from one issue: the district was determined to spend as little money on special education as possible. The battle with district 102 was not over our child - we sought a less expensive alternative than their proposed placement. The battle with 102 was about other children. The district admitted to us that they had many children who needed mainstream assistance and were not receiving it. To provide this support to our child (to set a precedent as they put it) was unacceptable. They would rather spend more money per child, on far fewer special education children. This was less expensive in total.

Many families and children within 102 were being denied special education services the district knew they were entitled to, and the district had an obligation to provide. The district's denial of services to my child was part of an effort to conceal the availability of these services from other families. Only those children with obvious and compelling handicaps were provided special education services - and then only in an out of district, self-contained placement.

The district's policy was to hold kindergarten & 1st grade children who were experiencing difficulties back one year. Little effort was made to evaluate or to diagnose the causes of these children's difficulties. Naturally, these children generally did well the second time through a particular grade, and with that boost, for a couple of years or more thereafter. If a child was then still not performing well enough to continue on in the the normal school program that child was shipped out.

The district's position was that children who were unable to maintain themselves in the local school without supportive services did not belong there. We were advised to leave the district if we were not satisfied.

This policy impacted a wide spectrum of children. Children were being shipped out who could have been serviced in the less restrictive environment of the local school if the district were willing to provide additional supportive services. Children were being shipped out who had fallen behind, who might never have fallen behind if they were provided effective early intervention. And children that were struggling, but hanging in, were being ignored.

District 102 had no special education administration, no diagnostic staff. They had no program for identifying these children.

In our initial dispute with District 102, the district failed to test our child or even complete an IEP. They introduced into the record at the level 1 hearing a blank IEP that contained only our child's name and address. They had done no testing, yet they insisted on a placement completely inconsistent with the placement he had at his previous district. They settled with us by agreeing to provide a part-time aide in a placement at the local school. However, at the beginning of the next school year, again without any testing, they stripped us of that aide. They later failed to complete any IEP for the balance of that school year or the next year despite repeated staffings. Their final response was that we should sue them again. We chose instead to move.

In our current school district, we could have had a mainstream placement with supportive services. We chose instead to place our child in the regional program. The reasons for the about face explain my positions on funding and regionalization.

The Low Incidence Cooperative Agreement (LICA) which covers north and northwest suburban Chicago has a sufficient population base and enrollment. They were able to support separate hard of hearing and deaf elementary programs. They were able to provide age appropriate groupings of children with similar handicaps. They had the evaluation staff to properly diagnose and monitor our child's needs, and, they had multidisciplinary staff trained in working with the hearing impaired to deal with his other handicaps. Furthermore, they chose to spend their funds on faculty, not bricks and morter. Their programs were housed in available space at regular schools. By placing our child in their program he was able to get the special educational services he required, the support of similarly handicapped peers, plus, he was able to be mainstreamed as much as possible. Mainstreaming was totally flexible by subject or time within the school day.

It is my understanding that District 102 now has a director of special education services. They have also created their own special education programs within the district. Does this indicate a change of heart? Does this mean that a broader spectrum of children with special education needs are being serviced as part of an effort to intervene earlier and more effectively?

On paper it might. A closer examination might however show instead:

> The special education director is also a full time principal, and that his duties as a principal have not been reduced to allow time for special education.
>
> The children in the local special education programs are those same children that were previously shipped out. They have been returned to the school to save money.
>
> The children in the local programs are not grouped appropriately according to their handicapping condition.

The truth might be exactly the opposite of what appears on paper. The truth might be that the district's efforts are aimed at reducing spending on special education. That those children who were being poorly educated before are receiving even less of an education now, and, that the district is not reaching any more children then it ever was.

Conclusions

Local districts often do not understand the underlying concepts regarding special education law, and are not committed to it.

Local districts cannot support the specialized staff to diagnose and monitor special education children, relying on local districts would result in many children being overlooked, misdiagnosed and improperly educated.

Only co-op's and regional programs can:

- Provide sufficient population base for effective self contained programs that are necessary for some children,
- Support necessary diagnostic and technical staff

Problems with co-op's and regional programs overreaching themselves can be more easily dealt with then policing local districts.

Co-op's and regional programs will protect funding for special education because it is an issue of survival for them.

Local districts are under too much financial pressure. Special education funds are a tempting target. Budgetary wizardry could easily end up subsidizing regular programs with special education money, and there would be no way of knowing.

Regional programs are necessary for low incidence handicapping conditions.

Parental choice is important and should be preserved through the current staffing process and regional programs.

Our children need the administrative voice of the regional and co-op programs to protect their interests.

* * * * * * * * * *

Please consider this letter to be my written testimony, and include it in the record of the hearing.

Very truly yours,

Donald W. Rome

JOINT PREPARED STATEMENT OF FRANK R. RUSCH AND LAIRD W. HEAL
UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN

Positive Imact. We are most pleased to have this opportunity to comment on the progress made under Public Law 94-142 since it was passed in 1975. We believe that this law has been of enormous benefit to school-aged handicapped children and their families. Furthermore, the whole society has taken a different view of mental retardation and other handicaps as a result of this legislation. As students complete their public education provided for by 94-142, we see the impact of this act not only on public education but also on adult community services, as these students and their families look for meaningful lives in society's mainstream after secondary school graduation.

Support Should Focus on Proven Programs. Despite its impact and its successes, public education of students with handicaps faces many remaining challenges. Indeed as Congress debates the reauthorization of the fact, many lobbyists and other professionals will argue that the system is badly deficient, and that its only salvation lies in the massive infusion of additional federal funding. They will argue that we are training too few special education teachers and that we have too many unserved and underserved children with handicaps in and out of our public schools. While we agree with the facts that too few teachers are serving too few students, we hope that Congress will resist the temptation to throw dollars noncontingently at all programs for handicapped children, some of which have proven merit and some of which do not.

We believe that some programs in special education are of proven benefit to both the individuals and society, and should be supported. For example, early education of handicapped and disadvantaged individuals has proven itself in a number of scientifically sound studies (for example, Head

Start, the Milwaukee project by Howard Garvey at the University of Wisconsin, and the sophisticated cost analysis by Steve Barnett at Utah State University) have provided convincing evidence of the tremendous life-long benefits that can accrue from intensive mainstream education of preschool children, and support of their families.

At the other end of the public school age span lies "transition" education, the preparation of students for meaningful post- secondary school lives in the adult community. Our institute was created under the transition education initiative of the Office of Special Education and Rehabilitative Services (OSERS) in 1985. In our four years of existence we have had the opportunity to review over 200 federally funded projects to study and demonstrate models of transition from secondary schools to post-secondary situations. We have learned a great deal about the conditions that facilitate this transition smoothly. For example we have made great progress in understanding the necessary conditions to facilitate supported employment, employment integrated into a community setting with only necessary support provided. We know that successful transition requires an individualized transition plan developed by an integrated group of secondary and post- secondary agencies and implemented by a well-orchestrated support system whose principal effort is made by a well-trained job coach. We believe that currently known technology merits implementing a national transition education system.

Greatest Need: Evaluation of Traditional and Innovative Programs

But we believe these two areas, early education and transition education, are the exceptions to the rule in federally funded special education programs. Too much federal funding is provided for traditional, segregated, special education and unproven innovations, and too little is spent on the scientifically sound evaluation of these programs. Federal funders have been too patient with the practitioner-scientist schism. Both conventional and innovative practices must be evaluated with sound experimental designs in order to maximize the impact of federal funding for the education of children with handicaps. One reason we have too few teachers to teach our children with handicaps is that many good ones "burn out." Teachers burn out because they see too little progress in their children. If their teaching technology were better, we believe their burnout would certainly be less. The best antidote for the special education manpower shortage is investment in the development of proven instructional technologies. We have the technology to evaluate innovations, and we should use it.

In summary, Public Law 94-142 has made a sound contribution to the education of children with handicaps in the United States. However, many challenges remain, and we urge Congress to address these challenges by supporting the scientifically sound evaluation of current and innovative practices.

PREPARED STATEMENT OF ELSE V. HAMAYAN

One of the major problems facing educators of language minority students involves the placement of potentially English proficient[1] (PEP) students in special education or remedial programs. Although some of these students are valid candidates for special education placement, many are inappropriately identified as handicapped students. A survey of the literature suggests a number of potential reasons for this inappropriate placement.

First, there is a lack of knowledge by the professionals assessing PEP students. They are frequently unaware of the special characteristics language minority students bring with them to the testing situation, unaware of the normal process of second language development, and unaware of the limitations of many test instruments when assessing PEP students. Second, there are difficulties with the referral process when dealing with PEP students; teachers may refer students without consideration of linguistic or cultural differences; they may have negative attitudes toward PEP students, and they may ask naive or non-relevant questions when doing the referral. In general, PEP students are more quickly referred for academic and behavioral problems than are monolingual students. Third, the interpretation of test results --both in traditional and non-traditional testing-- must take into consideration a number of factors which are often not considered, such as language dominance, language transfer, and cultural and interactional differences. Finally, there are difficulties with professionals from diverse fields working together to assess PEP students.

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[1] The term "potentially English proficient" (PEP) will be used throughout this paper in lieu of the more traditional "limited English proficient" (LEP) to emphasize the positive aspect of adding English onto another language rather than the limitation that students with a primary language other than English are seen as having.

Too often, the special education assessor and the bilingual specialist do not interact in the best interest of the students. Recent calls for accountability, the increase in federal guidelines and the legal remedies applied to instances of inappropriate special education placement suggest the need for extensive discussion on current practices in bilingual special education. It also suggests the need for extensive training of teachers of language minority students and their administrators, who are likely to initiate what might be an unnecessary referral of a PEP student to special education.

The following questions are important for the discussion:

1. How can we distinguish between temporary difficulties that students face in learning to function in a non-proficient second language and more permanent perceptual and/or cognitive deficiencies that interfere with learning? Although there is no easy answer to this question, a general guide to be used is that assessment of PEP students must be extensive, multifacted, longitudinal and must include formal as well as informal means of assessment. In addition, data must be gathered about the various facets of a student's life in and out of school, preferably at a prereferral stage, before a full-fledged referral is initiated.

2. How can we assess PEP students' abilities, and possibly disabilities, when the students are not proficient in the language of the test? Every effort must be made to test bilingual students in both languages available to them. This necessitates for testing to be done by certified bilingual psychologists or speech pathologists, and if they are not available, by extensively trained interpreters working alongside a psychologist. When formal tests are administered, great care must be taken in interpreting the results, and even in the administration of the test according to

the rigid rules usually delineated in test administration manuals.

3. What types of assessment not only satisfy the requirements of the law, but just as importantly, give service providers clear guidelines as to the components of instruction that a student needs? Both formal tests, such as those commonly used by school districts throughout the nation, as well as informal tests, which include observation scales, open-ended interviews, and subjective ratings, are needed. Performance-based tests, such as the standardized test commonly available on the market, as well as adaptive-behavior assessment, such as the Learning Potential Assessment Device (Feuerstein, 1986), are needed. Information about a student's first language proficiency is needed as well as information about second language proficiency.

The assessment process is an extremely complicated one, and it takes on greater complexity when educators and testing personnel must take cultural and linguistic diversity into account. Because of the biases of many formal testing procedures toward students with diversity, the assessment process with PEP students requires a mixture of knowledge, skill, and creativity. I hope that the resources necessary can be devoted to this important endeavor.

July 31, 1989

Honorable Paul Simon
U.S. Senate
Washington D.C.

Dear Senator Simon,

Please submit this as written testimony for the public hearing on PL94-142 held July 24, 1989 at Springfield Il.

First I must say I heard about the hearing from you at a town meeting in Meredosia Il. about two weeks before. When I brought up the issue informally after the meeting of more advocacy needed in PL94-142. My understanding from talking privately to some of those attending the hearing was that this was not a publicized issue. I regret more people weren't made aware so that although they couldn't testify they could at least had the opportunity to know about it and could have submitted written testimony such as this.

To be brief the main issue I wish to inform you of is that the U.S. Congress can write laws until the cows come home however if the lay people do not know, are not aware of, or don't know how to make use of them then the professionals in the particular field (school administrators, sp. ed. personnel, etc.) will do only what they can get by with barely upholding the spirit of the law. They do this probably mostly due to financial restraints. Right now 99% of special education parents think all they need to do is send their child to school and leave the rest up to the school personnel. In those instances Senator it is my experience that those children do not receive an education appropriate to their individualized needs.

I am well known in the special education community. It is only because I have and will continue to advocate for my special needs daughter although the time, energy, and financial expenditures are tremendous.

The only suggestion short of financial needs is for the federal supported Protection and Advocacy agencys throughout Illinois set up at each school district yearly parent group meetings to help those in these circumstances understand their rights.

Senator, I for one appreciate your interest and work in this field.

Sincerely
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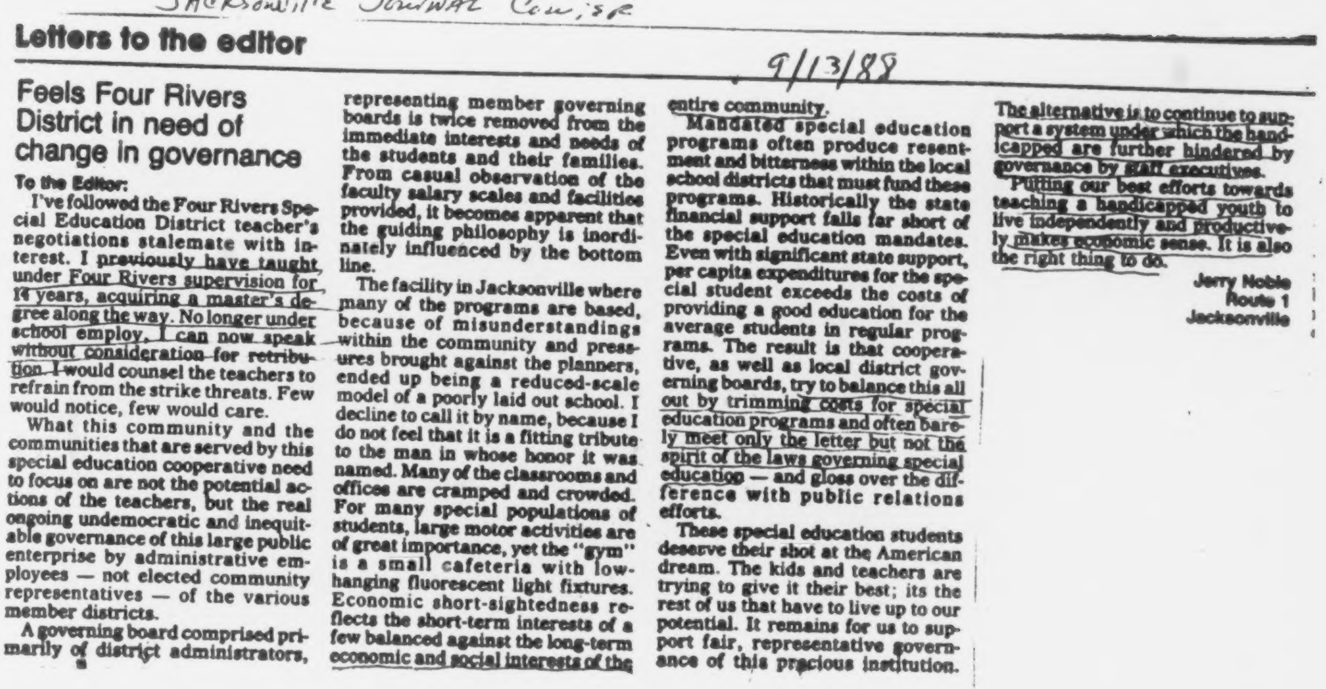
P.S. Important clipping
related to this issue enclosed.
Have a dozen others on subject.



Jacksonville Journal Courier

9/13/88

Letters to the editor

Feels Four Rivers District in need of change in governance

To the Editor:

I've followed the Four Rivers Special Education District teacher's negotiations stalemate with interest. I previously have taught under Four Rivers supervision for 14 years, acquiring a master's degree along the way. No longer under school employ, I can now speak without consideration for retribution. I would counsel the teachers to refrain from the strike threats. Few would notice, few would care.

What this community and the communities that are served by this special education cooperative need to focus on are not the potential actions of the teachers, but the real ongoing undemocratic and inequitable governance of this large public enterprise by administrative employees — not elected community representatives — of the various member districts.

A governing board comprised primarily of district administrators, representing member governing boards is twice removed from the immediate interests and needs of the students and their families. From casual observation of the faculty salary scales and facilities provided, it becomes apparent that the guiding philosophy is inordinately influenced by the bottom line.

The facility in Jacksonville where many of the programs are based, because of misunderstandings within the community and pressures brought against the planners, ended up being a reduced-scale model of a poorly laid out school. I decline to call it by name, because I do not feel that it is a fitting tribute to the man in whose honor it was named. Many of the classrooms and offices are cramped and crowded. For many special populations of students, large motor activities are of great importance, yet the "gym" is a small cafeteria with low-hanging fluorescent light fixtures. Economic short-sightedness reflects the short-term interests of a few balanced against the long-term economic and social interests of the entire community.

Mandated special education programs often produce resentment and bitterness within the local school districts that must fund these programs. Historically the state financial support falls far short of the special education mandates. Even with significant state support, per capita expenditures for the special student exceeds the costs of providing a good education for the average students in regular programs. The result is that cooperative, as well as local district governing boards, try to balance this all out by trimming costs for special education programs and often barely meet only the letter but not the spirit of the laws governing special education — and gloss over the difference with public relations efforts.

These special education students deserve their shot at the American dream. The kids and teachers are trying to give it their best; its the rest of us that have to live up to our potential. It remains for us to support fair, representative governance of this precious institution.

The alternative is to continue to support a system under which the handicapped are further hindered by governance by staff executives.

Putting our best efforts towards teaching a handicapped youth to live independently and productively makes economic sense. It is also the right thing to do.

Jerry Noble
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PREPARED STATEMENT OF SANDRA HEINS

I am Sandra Heins. I live in Bloomington, IL with my husband Gregory and our family. It was nearly six years ago when the second of our three daughters, Abbey, was born with Down syndrome. Therefore, our interest in P.L. 94-142, and its implementation, is intense. We are as thankful for it as we are the United States Constitution. We are deeply affected by the interpretation of both documents. Currently the Constitution's concept of "freedom of speech" is being debated again as P.L. 94-142's concept of "least restrictive environment" has been debated. With continuity, the true intent of the authors of both documents must be upheld. If not, rights are lost and harm can ensue.

P.L. 94-142 commences with a "Statement of Findings and Purpose" which speaks of enabling children with handicaps to full equality of opportunity (3), and going through the educational process with their peers (4). Later in the Act under "Eligibility" (5)(B) it states that children with handicaps are to be "educated with children who are not handicapped, and ... removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily ..." These statutory principles provide the concept of least restrictive environment. Here the authors make their intent known. Here the authors tell us that separation of students with handicaps from students without handicaps is to occur only when education is not being obtained. Here they envision a system learning how to specialize and deliver services in the school classroom the student would attend if not handicapped.

Yet, respectfully, Senator Simon, here in your own state, the implementation of these provisions have, under good intentions, deviated from the directive of P.L. 94-142. It seems that in a well-meaning zealous effort to advance those with handicaps, the true intent of educating _all_ students alongside each other was overlooked. To deliver more intensive, more frequent, more specialized professional services, centralized locations were seen as the 'better' way to 'educate' students with handicaps. However, the immersing of special education staff and special education students in their own environment, loses the educational benefits of an integrated environment. Educational benefits like incidental learning, modeling appropriate socialization and other skills, and generalization, are lost as students are educated away from same age peers, away from the schools their neighborhood peers attend, away from their community. Once a first grade friend and neighbor approached me and asked "Will Abbey ever go to real school?" Because Abbey was placed in another school, that school was not a part of the neighborhood reality. Through the other school placement, the system imposed another difference in the way Abbey was perceived. Such system barriers are routine for Illinois children I know.

The authors of P.L. 94-142 realized the need for specialized services if students with handicaps are to cultivate their potentials. They envisioned those services delivered first in regular educational environments. As a member and/or officer in several local, state, and national parent-professional organizations, I know there are children not given integrative opportunity because many local education agencies have concentrated on delivery of services *first* in more restrictive environments. It's past time to enhance service options so an Individualized Educational Plan (IEP) can be an "individualized" IEP and not an "available program" IEP.

The challenge to the implementation of P.L. 94-142 remains to provide services that will support educational obtainment within those regular educational environments. The zealousness that narrows students to pullout programs, self contained classrooms, and separate schools, needs to broaden its vision. Creativity can modify those same specialized services to support varying degrees of formal and other types of learning in less restrictive environments. Adaptation is necessary to allow the opportunity to attend the "real" school.

The authors of the Constitution and P.L. 94-142 have realized that minorities have a rightful integrated place with the majority. That's the true intention. *All* children have a right to an integrated educational program but not *all* have an opportunity to attend one, nor will they until P.L. 94-142 is implemented as it was intended.

As I was preparing this testimony, Abbey approached me and asked what I was writing. It was one of those throat-choking moments when you face a (societal-caused, *not* child-caused) consequence of having a child with Down syndrome ... do I tell her that I'm trying to find the right words to make decision-makers realize that the development of the potential she holds greatly depends upon a law allowing her to go to the same school her sisters go to? Do I tell her that she is mistakenly seen by society as so different that we must advocate for her inclusion - even though it is her American birthright? Do I tell her that if this law gets implemented the way it's intended, then she and others won't be asking their mothers "what are you writing?" Then I would not have lied and said "a letter to Aunt Ann."

Sandra E. Heins

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Sandra E Heins

PREPARED STATEMENT OF LYNDA ATHERTON

My name is Lynda Atherton. My husband, Bob, and I are citizens and tax payers in the State of Illinois. We are certified teachers in regular education and Bob is a school administrator. We are also parents of a 13 year old daughter who is considered by society to be "severely normal" - if that is possible at age 13, and a 10 year old daughter who has "severe, multiple disabilities" by society's standards.

When our daughter who has disabilities was 2 1/2 years old she was also labeled with statements such as "failure to thrive", "medically fragile", "chronic illness", etc. She has since thrown off those labels as her health and fitness have improved. However, she was hospitalized several time between her second and third birthday. And then she turned 3 years old.

At that time we were involved in her initial Multidisciplinary Conference (MDC) to determine her eligibility for Special Education Services, to develop an Individualized Education Program (IEP) which included goals, objectives and the related services she would need, and to determine "placement"; the place in which the educational program and related services would be delivered. After determining Amy's "needs", writing goals, objectives, and related service needs (i.e. physical therapy, speech, occupational therapy, psychological services, monitoring by the school nurse, etc.), we reached the "placement" portion of the MDC. We were informed by the educational personnel that "those types of children" were bussed 20 miles away to receive their education in a private, segregated school. There were no options. There were no CHOICES!

From that day to this we have been continually amazed at a 'kind and gentle America' that would set up a system where children whom society considers the least able, children who have the most difficulty with transitions and changes, and the children considered the most medically/physically fragile are bussed out of town, sometimes very long distances from their homes for the convenience of the able-bodied, healthy adults who are *paid* to provide them with services! We were appalled at our daughter's Multidisciplinary Conference 7 years ago and we are still appalled today.

Our local district supposedly had a "non-categorical" pre-school Special Education classroom for children ages 3-6. We quickly learned that "*non*-categorical" really meant "at-our-discretion categorical". After much discussion, negotiating, and informing our district that we were contemplating Due Process, our daughter was placed in the neighborhood local public elementary pre-school class that was offered in our town. This "non-categorical" class was now truly "*non*-categorical"! Amy attended this school for 2 1/2 years and made significant gains. We, however, had 2 1/2 years of continual frustration and confrontation with local administrators who were not supportive of this placement.

Soon Amy would turn 6 years old and no longer be eligible for a pre-school program because of her age. We found ourselves facing the same issue of "placement" again. We were told that "there are no programs in this county to serve Amy". This was in our 'ignorant' days when we fell into the trap of thinking that children had to fit into existing "programs" offered by a school system, rather than a "program" being developed around the *individual* needs and characteristics of the child, as stated in P.L. 94-142. *There were no options.* *There were no CHOICES!*

We were exhausted and beaten by these continual confrontations in the educational system. And so we moved. That seemed to be our only option. That seemed to be our only CHOICE. My husband now travels one hour each way to maintain his job. He does this because there were no placement options or choices for our daughter!

We found an "integrated" educational system which provided appropriate special education services to all of the students no matter how severe the disabilities. And we can attest to the fact that it does work; it is working. And we are confident that it will continue to work. Our daughter is progressing, she is learning, she is happy, she has friends. And as parents, we cannot impress upon you enough, ladies and gentlemen, the importance of those friendships. They make our daughter's life more complete. They make our daughter's life happy. Those friendships make our lives as parents more complete because other children - regular education children - are touching our daughter because they want to, not because they are paid to do it! These children are society's future employers. These children are society's future leaders and legislators. These children are what will truly make "a kinder and gentler America".

Thank you.

As Lynda Atherton, I must now change hats and speak to you as Parent Coordinator for the state-wide Project CHOICES (Children Have Opportunities in Integrated Community EnvironmentS).

We parents usually have one of two labels. We are either "over protective" of our children who have disabilities, or we are "unrealistic". I am here to say that these labels and perceptions are wrong. We parents are not as unrealistic, crazy, and over zealous as many say we are. We do know our children. Our children are in the regular world, the regular community, the regular grocery stores, banks, churches, K-marts, and neighborhoods every day of their lives! The only time many children are set apart from the regular world is the approximate 6 hours when they attend school.

As Parent Coordinator, I am witness to a lot of pain in this state. I receive calls almost daily from parents who have NO placement options. In fact, many parents who have called in the last two years have stated their frustration and anger with the Illinois State Board of Education because, in the parents' view, the State is not moving fast enough to enforce procedures that give their children "options." School is time-limited and every year that goes by is a year lost.

I am including with this testimony a copy of the Project CHOICES Parent list and network of interested parents. This list is small because the project is new & most contacts have been by word of mouth. Some are parents who have regular school placements for their child, others are still learning and interested in regular school placements, and still others desperately want regular public school placements for their child. NOTE: I said regular public schools; NOT regular education classrooms or academic subjects. You see, we are realistic. We know that our children cannot successfully complete the requirements of an algebra, language arts, spelling, or biology class. But they can participate in lunch, recess, P.E., music, art, homeroom, library, computer labs, etc. This is integration. NOT "mainstreaming", but integration.

It is probably fair to state that all Illinois school districts have a "continuum of program options" or "continuum of services" but I can tell you from the many parents who call me, that many Illinois school district do NOT have a "continuum of placement options". When a parent is told, "We have many different programs within our school system, but because of your child's primary disability (or label) the only place where we offer an appropriate program for your child is 'over there'" (and 'over there' is in a separate school where all of the students have disabilities), - there are no "placement" options. There are no "placement"CHOICES!

I have read some of the testimony and letters from people and organizations opposing the Least Restrictive Environment (LRE) initiative in Illinois and I feel some clarifications need to be made.

Many of the letters opposing the LRE standard continually use the phrases "continuum of program options", "full continuum of services" and "appropriate education/services/program" as justification that their programs are in the Least Restrictive Environment or to argue that 'appropriate services' are the primary consideration. These phrases are NOT placement definitions; they are program definitions.

"Program" and "Placement" are two totally separate issues and they are both guaranteed by P.L. 94-142 - "Education for All Handicapped Children Act of 1975". The "Least Restrictive Environment" is also guaranteed by this law.

Program is curriculum. Program is WHAT is taught and the methods used. Program is the goals, objectives and related services decided upon in a meeting for an individual child. Program is 'specially designed instruction'. "Program" is not WHERE the goals, objectives, related services and special instructional methods are received by the child.

The term "Individualized education program" is defined very specifically in the law. It states:

> "(19) The term "individualized education program" means a written statement for each handicapped child developed in any meeting by a representative of the local educational agency.....specially designed instruction to meet the unique needs of handicapped children.....which statement shall include (A) a statement of the present levels of educational performance of such child, (B) a statement of annual goals, including short-term instructional objectives, (C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs, (D) the projected date for initiation and anticipated duration of such services, and (E) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.".....

No where in this definition of "program" is there a statement or section on where the 'specially designed instruction' is to take place.

"Placement" is WHERE the specially designed instruction takes place. "Placement" is the building. "Placement" is the bricks and mortar. "Placement" is the environment(s) in which a student participates, experiences and learns.

Unfortunately over the years in Illinois, a system has developed and evolved where we "place" students into existing "programs" rather than writing and implementing "programs" for the individual child. "Placement" has begun to be seen as "program" rather than the place, the environment, the bricks and mortar in which instruction takes place.

The WHERE is stated in a number of sections of P.L. 94-142. These include:
20 USC 1412. Sec. 612

> ".....a State shall demonstrate to the Commissioner that the following conditions are met:.....
>
> > (5) The State has established.....(B) procedures to assure that to the maximum extent appropriate, handicapped children, including children in public and private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that the education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily....."

And also, at Sec. 614;

> "Such application shall - .....(1) (C) establish a goal of providing full educational opportunities to all handicapped children, including.....
>
> > (iv) to the maximum extent practicable and consistent with the provisions of section 612 (5) (B), the provision of special services to enable such children to participate in regular educational programs;...."

And again, at Sec. 618 (d);

> "(2) The Commissioner shall include in each such report -" (to Congress) "(A) an analysis and evaluation of the effectiveness of procedures undertaken by each State educational agency, local educational agency, and intermediate educational unit to assure that handicapped children receive special education and related services in the least restrictive environment commensurate with their needs....."

Furthermore, the Illinois State Board of Education explains "program" and "placement" in training Due Process Hearing Officers with a diagram which I have included here.

PROGRAM	PLACEMENT
The I.E.P. and Related Services based on the unique needs of the *Individual* Student	WHERE the I.E.P. and Related Services are delivered

This is one parent who is extremely pleased to see Illinois finally beginning to invest in *students* and their "programs" rather than the bricks and mortar in which the instruction takes place!

This is not just an educational issue. This is a constitutional issue. My daughter who is "severely normal" is in 8th. grade. My daughter who has severe disabilities is age-appropriate for 5th. grade. Both the 5th. grade and the 8th. grade Social Studies textbooks include the United States Constitution. I would like to quote the 8th. grade text's explanation written in blue under Amendment 1 Freedoms of Expression.

> "The 1st Amendment protects 5 basic civil liberties - freedom of religion, of speech, and of the press and the rights to assemble peacefully and to petition for redress of grievances."

Some parents have said to me, "How can others dare to say that my child can only eat lunch with other children who are mentally retarded?" Some have asked, "Who gives others the right to determine that my child can only participate in Music or Homeroom with other children who are in wheelchairs?" Still others have stated, "Where do others get the right to decide that my child cannot participate in Art, or recess, or P.E., etc. with regular education students?" And I cannot answer them because the First Amendment guarantees all citizens the right to assemble peacefully; also referred to as "freedom of association".

My daughter's Social Studies book also gives this explanation under Amendment 14 Rights of Citizens

> "Adopted in 1868, the 14th Amendment is one of the most important. It is the basis for numerous Supreme Court decisions, particularly relating to civil rights.
>
> Until its adoption, the Constitution contained no definition of citizen, despite the fact that 'citizens' are mentioned in numerous provisions. Citizenship may be acquired by birth or by naturalization. Citizenship by birth may be either 'jus soli' (the law of the soil;

born in the United States or its territories) or 'jus sanguinis' (the law of blood; that is, born to American citizens.)

In addition to defining citizenship and extending it to blacks, Section 1 prohibits states from denying privileges and immenities of citizenship to any citizen. .....The guarantee of equal protection of the laws, prohibits states from making unreasonable distinctions between different groups of people. Its purpose is to prevent arbitrary classification and discrimination in laws or executive actions."

In neither the 1st or the 14th Amendments of our United States Constitution does it state that only "citizens/people" with an I.Q. of 75 and above, or only "persons/citizens" who are able-bodied, ambulatory, and verbally communicate have guarantees, freedoms, and rights. Our Constitution says ALL people, ALL persons, ANY citizen.

All that most of these parents want is an option, a CHOICE, a chance for their child while receiving special education services to attend the same school as their brothers and sisters and friends and neighbors. And that presumption is in P.L. 94-142.

Thank you for this opportunity to share my views. And thank you for listening.

Sincerely,

Lynda Atherton

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PREPARED STATEMENT OF THE VERMILION ASSOCIATION FOR SPECIAL EDUCATION

P.L. 94-142 has progressively moved forward in assisting school districts in providing equal educational opportunities for handicapped children throughout Illinois. From the conception of this historic legislation and its subsequent implementation, many growing pains have occurred. As with the birth of any new program the overall impact is sometimes limited by its parts. As this legislation is critically reviewed, attention must be focused on those parts which limit its overall effectiveness. Among those critical concerns are the need for adequate funding of the law and the need for personnel who are well qualified and available in sufficient quantity to provide services to handicapped children. These two issues have had a profound effect on special education services in Vermilion County.

The issue of funding special education in Illinois is a combination of limited support from both state and federal sources. The inability to adequately appropriate funds at these levels of government have shifted the support of Illinois schools back to the local level. School districts having been unable to pass referendums to shore up this shift in funding have systematically reduced regular education programs. Many programs once offered to children are now extinct. Impacting this already overburdened load has been changes in farm land assessments, the loss of small and large local businesses, and an economy that has been slowly recovering from years of inflation. Throughout this process the mandates of P.L. 94-142 have moved forward requiring compliance with all provision of the law. In recent years the enforcement of these mandates have expanded from the Illinois State Board of Education to the Office of Civil Rights. This has placed a tremendous emphasis on the legal basis of supporting special education programs often irregardless of ability to meet certain mandates.

The fourteen school districts in Vermilion county provide services to nearly 2,700 special education students. To provide these services over 330 certified and support staff are employed. A full continuum of services are offered with only 21 children being placed outside of the county for FY90. These districts should be commended in their efforts to support handicapped children. However, their efforts to continue this support have been in jeopardy. Since the 1987-88 school year Vermilion county has lost in excess of $700,000.00 in financial support for its special education programs. This has been largely due to prorations in private facility placements, extraordinary funding, transportation, and personnel reimbursements. Although the current state income tax increase will improve this situation, the level of funding remains inadequate.

In addition to the funding problems Vermilion county has experienced difficulities in hiring adequately trained and appropriately certified staff. During the last school year eighteen vacancies were reported by the schools for nearly the entire school year. This included eleven vacancies in the speech/language area. As a result, nearly 700 eligible handicapped children were under served or not served in the county. We are less than two weeks away from a new school year and have vacancies in speech/language therapy, school social work, occupational therapy and various special education teaching positions. Our prospects of hiring necessary staff at this time is poor. By not being able to serve these children our child count is reduced and subsequent funding is reduced. This could amount to nearly $100,000.00 reduction of funding in this county alone.

Recent information from the Illinois State Board of Education has indicated a reduction of nearly 7,000 students receiving special education in the past year. This will further reduce the amount of the federal funding to the state having a negative impact on supporting special education programs at the local level.

In summary, an effort must be made to make sure that funding levels and adequate numbers of staff are available to support the mandates of P.L. 94-142. The burden of supporting special education programs must be a shared responsibility between the federal, state and local government. It is only through the continued effort and vigilance of those who lead that the intent of P.L. 94-142 will be realized.

Viewpoint

New state programs drawing attention

Special education: A special mission for our schools

by President Lee Betterman

Madeleine Will, assistant U. S. secretary of education and director of special education, recently visited West Chicago High School — the site of a successful Illinois State Board of Education's "Project Choice" initiative. In this project, severe and profound hearing impaired students from the Philip J. Rock Center are integrated into the regular school building. The television coverage I viewed of the tour did not tell the complete story and certainly must have fanned the fearful rumors that are abundant around Illinois about the state's Regular Education Initiative.

The factors that were *not* discussed in most of the media coverage are the most important to the success of the project and would have become apparent in a discussion with the local association president, who has been closely involved with the integrated education of these special education students in her regular classroom. A special education teacher was of continued assistance to both the students and the teachers in the specific areas where these special education students were actually in class with other students. The main area of integration was physical education. The class size was controlled so that the regular teacher, with assistance of the special education teacher and an aide for the individual student, could provide appropriate education to *all* students in the class. The thrust of the program is to place the special education class in the regular education school building, not to place severe and profound special education students in all regular school classes.

Fear and panic are being generated among both regular and special education teachers by a number of forces in the special education arena and very little is being done to help public school employees and parents understand the facts. I believe that we must look at the goals and address the issues with clearly focused positions that will translate into the best learning conditions for *all students*.

IEA-NEA is dealing with the proposed changes at the state level and Dr. Ed Sontag, the state's director of special education, has been invited to clarify the ISBE position at the IEA Representative Assembly in March.

There are two ISBE papers that are being developed that have been shared with me and I am reacting to them on our members' behalf. As your president, I have been added to the program of "The Regular Education Initiative: Partnerships for Achievement" on March 16-17, 1989, at the Holiday Inn Mart Plaza, Chicago, to express the teacher, both regular and special education, point of view. I welcome the support that the attendance of our members at the conference provides.

There are two initiatives that are simultaneously being advanced that have been intertwined in people's reactions. The reported goals of the Regular Education Initiative are directed at "the mildly handicapped students and students with learning problems." The learning environment of the students thus identified would be more closely examined to first determine whether there are appropriate measures that can help them succeed in the regular classroom with special assistance before placing them in special education programs. In addition, those placed would receive the services of the special education teacher in the regular setting as much as possible rather than in a "pull out situation."

The second initiative that is moving forward — and it is the one applauded at West Chicago High School — is the "least restrictive environment" or "integration" initiative. The approach under the initiative is to place special education classes in the regular neighborhood school building, but *not* necessarily to integrate the profound and severely impaired students into the regular classrooms. The discussion of pros and cons are too lengthy and complicated to include here, but it is clear that research and funding are vital elements and we as professionals must demand that whatever changes occur must ensure that the right of *every* child to an appropriate education and the opportunity to reach his/her potential is protected.

Our approach must first of all recognize that the issues involved in these initiatives are not simply special education issues. They are issues for all public school employees, all students, and all parents. The placement of a child with a handicapping condition that compromises the quality of education in a classroom is inappropriate. Appropriate placement must not jeopardize the education of the regular students in the classroom, must give professional support to the teacher, and must allow the student with the handicapping condition to achieve his or her individual potential.

IEA, both on the state and local level, must stand firmly on professional standards that insist that local assessment and placement teams, which include both special education teachers and regular teachers, are free to make decisions based on the educational welfare of all students. Regulations, administrative dictates, and financial considerations should not restrict professional choices.

If special education students are placed in the regular education classroom, special educators' roles must be redesigned, not eliminated, to provide professional support to the student and to the regular classroom teacher. To enable each child in the regular education classroom to receive the appropriate education, class size must be reduced to accommodate the addition of special education students. Where students with severe and profound handicapping conditions are placed in the regular neighborhood school building, a school nurse must be in the building. Specialized pre-service and inservice training must be provided for all school personnel in schools where special education students are deemed to be better served in the regular school setting since the success of all students will depend on the entire staff being adequately educated and prepared.

Clearly, it is the continued role of the local association to protect rights — the rights of both the regular and the special educator, the students, and, yes, even the parents. For if we protect all these rights, we will ultimately protect our own.

Dr. Sontag has assured me that these positions are not in conflict with his department's goals and objectives. The papers originating at the state level have not outlined these ideas as clearly as we would like. The state and school districts must understand that working conditions are being affected and thus the bargaining agent has the right to be involved. The changes must be considered in the light of the appropriate education standard. Together we must clearly represent our members' voice and expertise as we protect every student's right to a truly appropriate education in the best environment possible.

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(Whereupon, at 12:30 p.m., the hearing was adjourned, subject to the call of the Chair.)

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